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Third Judicial District, Canyon County
Chris Yamamoto, Clerk of the Court
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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EDEN'S GATE LLC, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his official capacity as Director of the Idaho Department of Water Resources, Respondents. and FARMERS CO-OPERATIVE DITCH COMPANY, Intervenor.	**Case No. CV14-21-10116**
IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	

SETTLED AGENCY RECORD ON APPEAL

Judicial Review from the Idaho Department of Water Resources
Honorable Eric J. Wildman, District Judge, Presiding

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FORM 202 Rev. 09/16

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34832

Parcel 11

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 11 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.07 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.11 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CS Date 01/02/2020 Time 11:20 Preliminary check by SN
Fee $ 100.00 Receipted by CS Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						2.3													2.3

Total number of acres to be irrigated: 2.3

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 2.3 acres within a 2.8-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
2
3
18
SENE
6N 5W
SWNW
17
NWSE
NESE
SESE
Legend
Parcel 11 pod
Parcel 11 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 11, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:5,000
0 125 250 500
Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34833

Parcel 12

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 12 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CS Date 1/2/2020 Time 11:20 Preliminary check by SN
Fee $ 100.00 Receipted by CJ Receipt No. W0479160 Date 1/2/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
2
3
18
SENE
6N 5W
SWNW
17
NWSE
NESE
SESE
Legend
Parcel 12 pod
Parcel 12 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 12, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
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Absolute Scale: 1:5,000
0 125 250 500
Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34834

Parcel 13

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 13 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.07 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.11 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CJ Date 01/02/2020 Time 11:20 Preliminary check by SN
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						2.3													2.3

Total number of acres to be irrigated: 2.3

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 2.3 acres within a 2.8-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
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18
SENE
6N 5W
SWNW
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Parcel 13 pod
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River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 13, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:5,000
0 125 250 500
Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34835

Parcel 14

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 14 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CS Date 01/02/2020 Time 11:20 Preliminary check by SN
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)


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River Bluff Development
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300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 14, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
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Absolute Scale: 1:5,000
0 125 250 500
Feet

FORM 202 Rev. 09/16

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34836

Parcel 15

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 15 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.06 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.10 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CJ Date 01/02/2020 Time 11:20 Preliminary check by SN
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.9													1.9

Total number of acres to be irrigated: 1.9

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.9 acres within a 2.4-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


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Application for Permit
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0 125 250 500
Feet

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WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34837

Parcel 16

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 16 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.04 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.08 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CJ Date 01/02/2020 Time 11:20 Preliminary check by S/N
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.3													1.3

Total number of acres to be irrigated: 1.3

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.3 acres within a 1.8-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
2
3
18
SENE
6N 5W
SWNW
17
NWSE
NESE
SESE
Legend
Parcel 16 pod
Parcel 16 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 16, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:5,000
0 125 250 500
Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. 63-34838

APPLICATION FOR PERMIT

Parcel 17

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 17 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CJ Date 01/02/2020 Time 11:20 Preliminary check by SN
Fee $ 100 Receipted by CJ Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
2
3
18
SENE
6N 5W
SWNW
17
NWSE
NESE
SESE
Legend
Parcel 17 pod
Parcel 17 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 17, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:5,000
0 125 250 500
Feet

FORM 202 Rev. 09/16

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34840

Parcel 4

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 4 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CJ Date 01/02/20 Time 11:20 Preliminary check by AB
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Date 01/02/20

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
2
3
SENE
SWNW
18
6N 5W
17
NWSE
NESE
Legend
Parcel 4 pod
Parcel 4 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 4, River Bluff Development
DATE: 11/27/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:4,164
0 125 250 500
Feet
Path: S:\PROJECTS\M thru R Projects\O Projects\One More Mile LLC_IPROJECT\GIS\ArcMap_Projects\Parcel 4 map.mxd

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Revised

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34841

Parcel 5

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 5 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.06 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.10 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CJ Date 1/2/2020 Time 11:20 Preliminary check by AB
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						2.1													2.1

Total number of acres to be irrigated: 2.1

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 2 acres within a 2.6-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet. Note, portion of parcel appears to overlap into NENE tract, however county tax records and the parcel's legal description indicate the parcel is located entirely in SENE. The GIS tax lot shapefile appears to be scewed.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
NENE
NWNW
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SENE
6N 5W
SWNW
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NESE
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Parcel 5 pod
Parcel 5 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 5, River Bluff Development
DATE: 11/27/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:5,000
0 125 250 500
Feet
Path: S:\PROJECTS\W thru R Projects\O Projects\One More Mile LLC_\PROJECT\GIS\ArcMap_Projects\Parcel 4 map.mxd

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34842

Parcel 6

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 6 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by GS Date 1/2/2020 Time 11:20 Preliminary check by AB
Fee $ 100.00 Receipted by GS Receipt No. W047960 Date 1/2/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


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Legend
Parcel 6 pod
Parcel 6 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 6, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
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Absolute Scale: 1:5,000
0 125 250 500
Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34843

Parcel 7

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 7 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.07 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.11 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CS Date 1/2/2020 Time 11:20 Preliminary check by AB
Fee $ 100.00 Receipted by CS Receipt No. W047960 Date 1/2/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						2.2													2.2

Total number of acres to be irrigated: 2.2

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 2.2 acres within a 2.7-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet. Note, portion of parcel appears to overlap into NENE tract, however county tax records and the parcel's legal description indicate the parcel is located entirely in SENE. The GIS tax lot shapefile appears to be scewed.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

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Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


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300 East Mallard Drive, Suite 350
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Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 7, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
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Absolute Scale: 1:5,000
0 125 250 500
Feet

FORM 202 Rev. 09/16

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34844

Parcel 8

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 8 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CT Date 01/02/2020 Time 11:20 Preliminary check by AB
Fee $ 100.00 Receipted by CT Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


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River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
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Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 8, River Bluff Development
DATE: 11/29/2019
CREATOR: LGraves
PROJECT: 1520.0010
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Absolute Scale: 1:5,000
0 125 250 500
Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34845

Parcel 9

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 9 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.07 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.11 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

For Department Use

Received by CS Date 01/02/2020 Time 11:20 Preliminary check by AB
Fee $ 100.00 Receipted by CJ Receipt No. W0479160 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						2.2													2.2

Total number of acres to be irrigated: 2.2

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

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13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

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Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


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Feet

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34846

Parcel 10

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 10 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
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   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
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   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
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For Department Use

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Fee $ 100.00 Receipted by CS Receipt No. W047960 Date 01/02/2020

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
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9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
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TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

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    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

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The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer

Print Name (and title, if applicable)

Signature of Applicant

Robin Fro

Print Name (and title, if applicable)


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SPF WATER ENGINEERING

December 30, 2019

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

Patrick Kelly, Water Rights Supervisor
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: Applications for Permit (14)

Dear Patrick,

Enclosed on behalf of One More Mile LLC, are 14 *Applications for Permit,* each requesting diversion of ground water from a new well for domestic and primary irrigation uses. The 14 parcels are located within River Bluff Development near Fruitland in Canyon County. Prior to development, the property was farmed and received irrigation water from Farmers Co-op Ditch Co. Attached is a letter from the subdivided property owner and an email from the Ditch Company secretary confirming and acknowledging that surface water will not longer be delivered to the subdivided property.

Check No. 1509 for $1,400 is enclosed for the filing fees. Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Sharla Froerer
Matt Wilke

Enclosures

SPF file number: 1520.0010

300 E. Mallard Drive, Suite 350, Boise, Idaho 83706 Tel: 208-383-4140 Fax: 208-383-4156

From: Netty Enrico <fcdc1875@gmail.com>
Sent: Friday, December 20, 2019 10:59 AM
To: Matt Wilke <matt@mywhitebarn.com>
Subject: RE: River Bluff Development / Remove surface water

Matt,

One More Mile holds the water shares for this parcel. You should get a letter from him. We have no control as to where he irrigates in our district.

Netty Davis,
District Secretary/Treasurer
Riverside Irrigation District, Ltd. &
Farmers' Co-Operative Ditch Co.
208-722-2010

From: Matt Wilke [mailto:matt@mywhitebarn.com]
Sent: Friday, December 20, 2019 9:51 AM
To: fcdc1875@gmail.com
Cc: April Wilke <april@mywhitebarn.com>
Subject: River Bluff Development / Remove surface water

Good Morning Netty,

I was wondering if I could get a letter from you stating that surface water will no longer be applied to the 14 Parcels of development ground for One More Mile LLC (Froerers).

I forwarded the E-Mail from Lori Graves at SPF showing the work being done on the water rights to Irrigate out of the well. We will send your letter to IDWR with the applications.

Thanks Netty!

Matt Wilke
Farm and Land Specialist | REALTOR®
White Barn Real Estate
Mills & Co. Realty Inc.
208.412.9803
matt@mywhitebarn.com
www.mywhitebarn.com

To whom it may concern,

One More Mile LLC intends to use the water shares from Farmers' Co-Operative Ditch Company that were in use on 14 parcels of land, legally described in Exhibit A, shown on the Record of Survey in Exhibit B, elsewhere in the irrigation district, or sell them.

Thank you,

Authentisign

12/27/2019 1:28:54 PM MST

Date: 12/27/2019

Authentisign

Craig S Froerer

12/27/2019 2:11:24 PM MST

Date: 12/27/2019

AuthentiSign ID: 23365CAB-28E4-4746-98D5-66E63FAA44E7

Exhibit A Consisting of 8 Pages

PARCEL 4:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2,

[SR] [CSP]

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 2 from which the Southwest corner thereof bears South 00°15'40" East 15.00 feet; thence along said West line
North 00°15'40" West 285.87 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 2; thence along said East line
South 00°15'40" East a distance of 97.70 feet to a ½ inch iron rod and a point of cusp; thence leaving said East line and
Along the are of a 85.00 foot radius curve to the left 73.70 feet through a central angle of 49°40'47" and whose long chord bears South 24°34'44" West 71.41 feet to a point of tangency; thence
South 00°15'40" East 101.38 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.38 feet through a central angle of 89°53'45" and whose long chord bears South 44°41'12" West 28.26 feet to a point of tangency; thence along a line 15.00 feet distant and to the North of the South line of said Lot 2, when measured perpendicular thereto
South 89°38'05" West 273.86 feet to the POINT OF BEGINNING.

PARCEL 5:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 2; thence along the North line of said Lot 2
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 2; thence leaving said North line and along the East line of said Lot 2
South 00°15'40" East 349.70 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West a distance of 323.82 feet to a ½ inch iron rod on the West line of said Lot 2; thence along said West line
North 00°15'40" West 348.22 feet to the POINT OF BEGINNING.

PARCEL 6:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3,

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 3 from which the Southeast corner of said Lot 3 bears South 00°15'40" Fast 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 3 when measured perpendicular thereto
South 89°38'04" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 3; thence along said West line
North 00°15'40" West 270.10 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 3; thence along said East line
South 00°15'40" East 268.037 feet to the POINT OF BEGINNING.

PARCEL 7:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 3; thence along the North line of said Lot 3
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 3; thence leaving said North line and along the East line of said Lot 3
South 00°15'40" East 366.05 feet to a ½ inch iron rod; thence
North 90°00'00" West 323.82 feet to a ½ inch iron rod; thence
North 00°15'40" West 364.58 feet to POINT OF BEGINNING.

PARCEL 8:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 4 from which the Southeast corner of said Lot 4 bears South 00°15'40" East 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 4 when measured perpendicular thereto

[SR] [CSP]

South 89°38'04" West 323.81 to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 272.17 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 4; thence
South 00°15'40" East a distance of 270.10 feet to the POINT OF BEGINNING.

PARCEL 9:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 4; thence along the North line of said Lot 4
North 89°44'20" East 323.81 feet to a ½ inch iron rod at the Northeast corner of said Lot 4; thence leaving said North line and along the East line of said Lot 4
South 00°15'40" East 364.58 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 363.10 feet to the POINT OF BEGINNING.

PARCEL 10:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 5, BLOCK I, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 5 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 5 when measured perpendicular thereto
North 89°38'04" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 5; thence along said East line
South 00°15'40" East 270.11 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 5; thence along said West line
North 00°15'40" West 268.04 feet to the POINT OF BEGINNING.

[SR] [CSF]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

PARCEL 11:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 5, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 5 from which an aluminum cap monument marking the Southeast corner of said Southeast Quarter bears North 89°31'47" East 1320.27 feet; thence along the West line of said Lot 5
North 00°15'40" West 367.22 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod to the East line of said Lot 5; thence along said East line
South 00°15'40" East a distance of 364.57 feet to a ½ inch iron rod on the South line of said Lot 5; thence along said South line
South 89°31'49" West 323.81 feet to the POINT OF BEGINNING.

PARCEL 12:

LEGAL DESCRIPTION OF PARCEL A OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 6 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 6 when measured perpendicular thereto
North 89°38' 04" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East 272.18 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 6; thence along said West line
North 00°15'40" West a distance of 270.11 feet to the POINT OF BEGINNING.

PARCEL 13:

[SR] [CSP]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

LEGAL DESCRIPTION OF: PARCEL B OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod marking the Southwest corner of said Lot 6 from which an aluminum cap monument marking the Southeast corner of the aforementioned Southeast Quarter bears North 89°31'47" East 996.46 feet; thence along the West line of said Lot 6
North 00°15'40" West 364.57 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East a distance of 361.91 feet to a ½ inch iron rod on the South line of said Lot 6; thence along said South line
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 14:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 7, BLOCK 1, ORCHARD TRACTS OF THE ORECON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 7 from which the Northwest corner thereof bears North 00°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 7 when measured perpendicular thereto
North 89°38'04" East 273.84 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.45 feet through a central angle of 269°53'27" and having a long chord of 28.31 feet bearing South 45°18'39" East to a point of tangency; thence
South 00°15'22" East 277.74 feet to a ½ inch iron rod; thence
North 90°00'00" West 293.79 feet to a ½ inch iron rod on said West line of Lot 7; thence along said West line
North 00°15'40" West 295.90 feet to the POINT OF BEGINNING.

PARCEL 15:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 7, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

[SR] [CSF]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 7 from which an aluminum cap monument marking the Southeast corner of said Southeast bears North 89°31'47" East 672.64 feet; thence along the West line of said Lot 7

North 00°15'40" West 338.18 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 293.79 feet to a ½ inch iron rod; thence
South 00°15'22" East a distance of 13.79 feet to a ½ inch iron rod and a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.45 feet through a central angle of 315°45'13" and whose long chord bears South 21°52'03" West 15.06 feet to a point of reverse curvature; thence
Along the arc of a 50.00 foot radius curve to the left 117.36 feet through a central angle of 225°31'04" and whose long chord bears South 23°00'54" East 92.21 feet to a ½ inch iron rod on the East line of said Lot 7; thence along said East line
South 00°15'40" East 222.88 feet to a ½ inch iron rod at the Southeast corner of said Lot 7; thence along the South line of said Lot 7
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 16:

LEGAL DESCRIPTION OF PARCEL A OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 8 from which the Northeast corner of said Lot 8 bears North 00°15'40" West 102.15 feet; thence along said East line
South 00°15'40" East 269.68 feet to a ½ inch iron rod; thence leaving said East line
South 89°31'49" West 273.97 feet to a point of cusp; thence
Along the arc of a 50.00 foot radius curve to the left 35.37 feet through a central angle of 40°32'03" whose long chord bears North 24°24'16" West 34.64 feet to a point of reverse curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.50 feet through a central angle of 44°24'55" whose long chord bears North 22°27'50" West 15.11 feet to a point of tangency; thence
North 00°15'22" West 326.69 feet to a ½ inch iron rod; thence
North 89°38'04" East 4.82 feet to a ½ inch iron rod; thence
South 00°15'40" East 101.40 feet to a ½ inch iron rod; thence
North 89°47'00" East a distance of 289.00 feet to the POINT OF BEGINNING.

PARCEL 17:

[SR] [CSR]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

LEGAL DESCRIPTION OF: PARCEL B OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southeast corner of said Lot 8 from which an aluminum cap monument marking the Southeast corner of the Southeast Quarter bears North 89°31'47" East 25.00 feet; thence along the South line of said Lot 8
South 89°31'49" West 323.82 feet to a ½ inch iron rod at the Southwest corner of said Lot 8; thence leaving said South line and along the West line of said Lot 8
North 00°15'40" West 222.88 feet to a point of cusp; thence leaving said West line
Along the arc of a 50.00 foot radius curve to the left 81.93 feet through an angle of 93°52'52" and whose long chord bears North 42°46'53" East 73.039 feet to a point of intersection with a non-tangential line; thence
North 89°31'49" East 273.97 feet to a ½ inch iron rod on the East line of said Lot 8; thence along said East line
South 00°15'40" East a distance of 276.08 feet to the POINT OF BEGINNING.

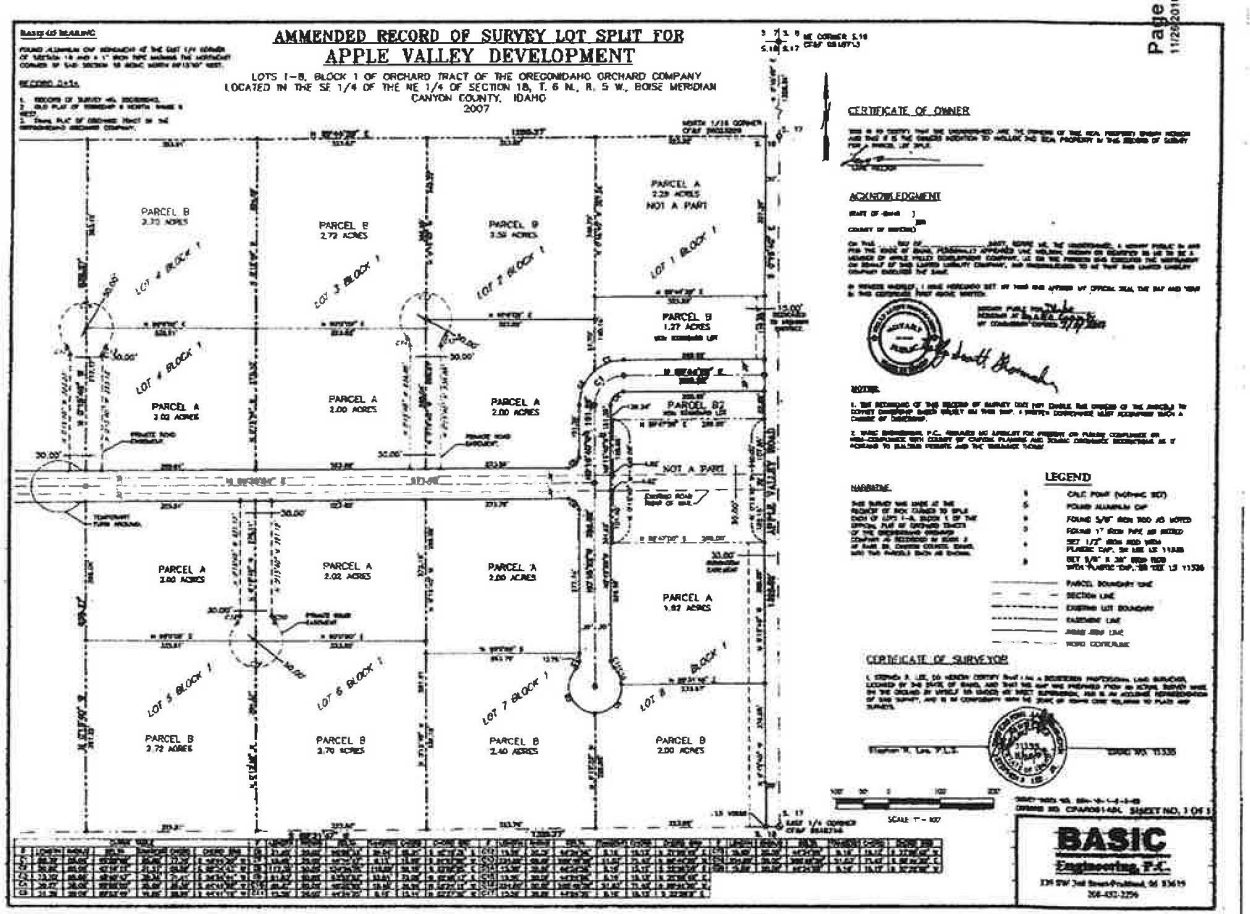
[SR] [CSP]

INSTRUMENT NO.
2067076627

NOT OFFICIAL
SEE ORIGINAL IN RECORDING
OFFICE

Page 2 of 4
11/26/2018 3:12 PM

Exhibit B



NOT OFFICIAL
SEE ORIGINAL IN RECORDING
OFFICE

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34832 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- Y Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- Y Address
- Y Source * (see USGS quad for source/trib names, comment for local name)
- Y P/D (10 acres for spring, lot & block info for subdivisions)
- Y County *
- Y Quantity (flow & /or storage volume)
- Y Period of use *
- Y Nature of use (list details in app. item 8 if non-irrigation)
- NA Municipal Checklist
- Y Description of diverting works
- Y Time required for beneficial use of water
- Y P/U
- Y Map (show T, R, Sect, POD & POU)
- Y Signature (need title of signatory if applicable)
- Y Correct fee paid
- Y Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* NA tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- Y Attach proof report
- Y Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST _____ Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
Y		Bs 63 GW? Water bearing zone legal notice remark required
	Y	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	Y	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	Y	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	Y	Critical Ground Water Area – send letter if cannot process
	Y	Ground Water Mngt. Area – send letter if cannot process
	Y	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	Y	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	Y	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	Y	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	Y	Waste Water – send form letter
	Y	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	Y	South Ada Co. GW Area of Concern – send form letter
	Y	South Canyon Co. GW Area of Concern – send form letter
	Y	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

WBZ: 40 to 200

ADVERTISING

YES	NO	
	Y	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
Y		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES	NO	
____	X	Water Dist #_____
____	X	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____	X	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____	X	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____	X	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____	X	IDL [POD/POU Property Owner, other]
____	X	US BLM [POD/POU Property Owner, other]
____	X	US Forest Service [POD/POU Property Owner, other]
X	____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Co-OP gets 1 letter
____	X	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 2/03/2020

YES	NO	
✓	____	Protested — If Yes: Prepare protest checklist and complete
✓	____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
____	____	Protested
____	____	Affidavit received/published correctly — If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
____	____	POD overlap – briefly explain_____
____	____	POU overlap – briefly explain_____
____	____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____	____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____	____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____	____	Municipal – Review AP Memo #18 and/or AP Memo #74
____	____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____	____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____	____	Power residency affidavit – send power letter for other factors if needed
____	____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES	NO	
____	____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____	____	Memo To File Re:_____
____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34833 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- X Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- X Address
- X Source * (see USGS quad for source/trib names, comment for local name)
- X P/D (10 acres for spring, lot & block info for subdivisions)
- X County *
- X Quantity (flow & /or storage volume)
- X Period of use *
- X Nature of use (list details in app. item 8 if non-irrigation)
- NA Municipal Checklist
- X Description of diverting works
- X Time required for beneficial use of water
- X P/U
- X Map (show T, R, Sect, POD & POU)
- X Signature (need title of signatory if applicable)
- X Correct fee paid
- O Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.
- * — tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9
- X Attach proof report
- X Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST _____ Initials

Government Lots
_____P/D
_____P/U

PRE-ADVERTISING ANALYSIS

YES	NO	
X		Bs 63 GW? Water bearing zone legal notice remark required
	X	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	X	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	X	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	X	Critical Ground Water Area – send letter if cannot process
	X	Ground Water Mngt. Area – send letter if cannot process
	X	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	X	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	X	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	X	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	X	Waste Water – send form letter
	X	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	X	South Ada Co. GW Area of Concern – send form letter
	X	South Canyon Co. GW Area of Concern – send form letter
	X	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

WBZ: 40 to 200 ft

ADVERTISING

YES	NO	
	X	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
X		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES	NO	
____	X	Water Dist # NA
____	X	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____	X	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____	X	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____	X	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____	X	IDL [POD/POU Property Owner, other]
____	X	US BLM [POD/POU Property Owner, other]
____	X	US Forest Service [POD/POU Property Owner, other]
X	____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Co-op gets 1 letter
____	X	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 2/03/2020

YES	NO	
✓	____	Protested — If Yes: Prepare protest checklist and complete
✓	____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
____	____	Protested
____	____	Affidavit received/published correctly — If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
____	____	POD overlap – briefly explain_____
____	____	POU overlap – briefly explain_____
____	____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____	____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____	____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____	____	Municipal – Review AP Memo #18 and/or AP Memo #74
____	____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____	____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____	____	Power residency affidavit – send power letter for other factors if needed
____	____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES	NO	
____	____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____	____	Memo To File Re:_____
____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34834 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- NA Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* – tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST _____ Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

WBZ: 40 & 200 ft

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES	NO	
____	X	Water Dist # NA
____	X	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____	X	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____	X	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____	X	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____	X	IDL [POD/POU Property Owner, other]
____	X	US BLM [POD/POU Property Owner, other]
____	X	US Forest Service [POD/POU Property Owner, other]
X	____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Co-op gets 1 letter
____	X	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 2/03/2020

YES	NO	
✓	____	Protested — If Yes: Prepare protest checklist and complete
✓	____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
____	____	Protested
____	____	Affidavit received/published correctly — If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
____	____	POD overlap – briefly explain_____
____	____	POU overlap – briefly explain_____
____	____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____	____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____	____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____	____	Municipal – Review AP Memo #18 and/or AP Memo #74
____	____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____	____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____	____	Power residency affidavit – send power letter for other factors if needed
____	____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____

Extension Requested On: _____ Response Received: Y ____ N____

_____

_____

DRAFT PERMIT

YES	NO	
____	____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____	____	Memo To File Re:_____
____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34835 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- Y Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- Y Address
- Y Source * (see USGS quad for source/trib names, comment for local name)
- Y P/D (10 acres for spring, lot & block info for subdivisions)
- Y County *
- Y Quantity (flow & /or storage volume)
- Y Period of use *
- Y Nature of use (list details in app. item 8 if non-irrigation)
- NA Municipal Checklist
- Y Description of diverting works
- Y Time required for beneficial use of water
- Y P/U
- Y Map (show T, R, Sect, POD & POU)
- Y Signature (need title of signatory if applicable)
- Y Correct fee paid
- Y Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.
- * - tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9
- Y Attach proof report
- Y Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST _____ Initials

Government Lots
_____P/D
_____P/U

PRE-ADVERTISING ANALYSIS

YES	NO	
Y		Bs 63 GW? Water bearing zone legal notice remark required
	Y	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	Y	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	Y	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	Y	Critical Ground Water Area – send letter if cannot process
	Y	Ground Water Mngt. Area – send letter if cannot process
	Y	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	Y	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	Y	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	Y	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	Y	Waste Water – send form letter
	Y	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	Y	South Ada Co. GW Area of Concern – send form letter
	Y	South Canyon Co. GW Area of Concern – send form letter
	Y	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

WBZ: 40ft to 200 ft

ADVERTISING

YES	NO	
	Y	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
Y		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES NO

____ X Water Dist # NA
____ X IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____ X IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____ X Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____ X IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____ X IDL [POD/POU Property Owner, other]
____ X US BLM [POD/POU Property Owner, other]
____ X US Forest Service [POD/POU Property Owner, other]
____ X Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Co-op sch 1 letter
____ X Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES NO

✓ ____ Protested If Yes: Prepare protest checklist and complete
✓ ____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

____ ____ Protested
____ ____ Affidavit received/published correctly If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

____ ____ POD overlap – briefly explain_____
____ ____ POU overlap – briefly explain_____
____ ____ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____ ____ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____ ____ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____ ____ Municipal – Review AP Memo #18 and/or AP Memo #74
____ ____ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____ ____ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____ ____ Power residency affidavit – send power letter for other factors if needed
____ ____ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES NO

____ ____ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____ ____ Memo To File Re:_____
____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34836 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- Y Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- Y Address
- Y Source * (see USGS quad for source/trib names, comment for local name)
- Y P/D (10 acres for spring, lot & block info for subdivisions)
- Y County *
- Y Quantity (flow & /or storage volume)
- Y Period of use *
- Y Nature of use (list details in app. item 8 if non-irrigation)
- MA Municipal Checklist
- Y Description of diverting works
- Y Time required for beneficial use of water
- Y P/U
- Y Map (show T, R, Sect, POD & POU)
- Y Signature (need title of signatory if applicable)
- Y Correct fee paid
- Y Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* _____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- Y Attach proof report
- Y Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST _____ Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
N	_____	Bs 63 GW? Water bearing zone legal notice remark required
_____	Y	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
_____	Y	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
_____	Y	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
_____	Y	Critical Ground Water Area – send letter if cannot process
_____	Y	Ground Water Mngt. Area – send letter if cannot process
_____	Y	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
_____	N	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
_____	Y	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
_____	Y	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
_____	Y	Waste Water – send form letter
_____	N	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
_____	N	South Ada Co. GW Area of Concern – send form letter
_____	N	South Canyon Co. GW Area of Concern – send form letter
_____	Y	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

WBZ: 40 to 200ft

ADVERTISING

YES	NO	
_____	Y	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
N	_____	Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES	NO	
____	X	Water Dist # NA
____	X	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____	X	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____	X	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____	X	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____	X	IDL [POD/POU Property Owner, other]
____	X	US BLM [POD/POU Property Owner, other]
____	X	US Forest Service [POD/POU Property Owner, other]
X	____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Co-op gets 1 letter
____	X	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES	NO	
✓	____	Protested — If Yes: Prepare protest checklist and complete
✓	____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
____	____	Protested
____	____	Affidavit received/published correctly — If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
____	____	POD overlap – briefly explain_____
____	____	POU overlap – briefly explain_____
____	____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____	____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____	____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____	____	Municipal – Review AP Memo #18 and/or AP Memo #74
____	____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____	____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____	____	Power residency affidavit – send power letter for other factors if needed
____	____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES	NO	
____	____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____	____	Memo To File Re:_____
____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34837 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ___ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) ___ bus. entity #
- ___ Address
- ___ Source * (see USGS quad for source/trib names, comment for local name)
- ___ P/D (10 acres for spring, lot & block info for subdivisions)
- ___ County *
- ___ Quantity (flow & /or storage volume)
- ___ Period of use *
- ___ Nature of use (list details in app. item 8 if non-irrigation)
- NA Municipal Checklist
- ___ Description of diverting works
- ___ Time required for beneficial use of water
- ___ P/U
- ___ Map (show T, R, Sect, POD & POU)
- ___ Signature (need title of signatory if applicable)
- ___ Correct fee paid
- ___ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
___ P/D
___ P/U

* ___ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

___ Attach proof report
___ Shapefile completed – attach with proof report

___ Give to WRS – Log APPSLIST ___ Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
___	___	Bs 63 GW? Water bearing zone legal notice remark required
___	___	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
___	___	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
___	___	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
___	___	Critical Ground Water Area – send letter if cannot process
___	___	Ground Water Mngt. Area – send letter if cannot process
___	___	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
___	___	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
___	___	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
___	___	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
___	___	Waste Water – send form letter
___	___	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
___	___	South Ada Co. GW Area of Concern – send form letter
___	___	South Canyon Co. GW Area of Concern – send form letter
___	___	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: ___ Response Received: Y ___ N___
Extension Requested On: ___ Response Received: Y ___ N___

WBZ: 40 to 200 ft

ADVERTISING

YES	NO	
___	___	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
___	___	Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES	NO	
____	X	Water Dist # NA
____	X	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____	X	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____	X	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____	X	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____	X	IDL [POD/POU Property Owner, other]
____	X	US BLM [POD/POU Property Owner, other]
____	X	US Forest Service [POD/POU Property Owner, other]
X	____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop Gets Letter
____	X	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES	NO	
✓	____	Protested — If Yes: Prepare protest checklist and complete
✓	____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
____	____	Protested
____	____	Affidavit received/published correctly — If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
____	____	POD overlap – briefly explain_____
____	____	POU overlap – briefly explain_____
____	____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____	____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____	____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____	____	Municipal – Review AP Memo #18 and/or AP Memo #74
____	____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____	____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____	____	Power residency affidavit – send power letter for other factors if needed
____	____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES	NO	
____	____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____	____	Memo To File Re:_____
____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34838 Reviewer SN Date 1-6-2020

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- b Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ∞ Address
- b Source * (see USGS quad for source/trib names, comment for local name)
- b P/D (10 acres for spring, lot & block info for subdivisions)
- b County *
- b Quantity (flow & /or storage volume)
- p Period of use *
- b Nature of use (list details in app. item 8 if non-irrigation)
- NA Municipal Checklist
- b Description of diverting works
- p Time required for beneficial use of water
- b P/U
- ∞ Map (show T, R, Sect, POD & POU)
- b Signature (need title of signatory if applicable)
- b Correct fee paid
- b Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.
- * _____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9
- p Attach proof report
- p Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST _____ Initials

Government Lots
_____P/D
_____P/U

PRE-ADVERTISING ANALYSIS

YES	NO	
b		Bs 63 GW? Water bearing zone legal notice remark required
	b	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	p	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	p	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	p	Critical Ground Water Area – send letter if cannot process
	b	Ground Water Mngt. Area – send letter if cannot process
	p	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	p	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	p	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	p	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	p	Waste Water – send form letter
	p	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	p	South Ada Co. GW Area of Concern – send form letter
	b	South Canyon Co. GW Area of Concern – send form letter
	b	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

WBZ: 40-200ft

ADVERTISING

YES	NO	
	b	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
b		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

COMMENT LETTERS

YES	NO	
_____	X	Water Dist # NA
_____	X	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
_____	X	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
_____	X	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
_____	X	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
_____	X	IDL [POD/POU Property Owner, other]
_____	X	US BLM [POD/POU Property Owner, other]
_____	X	US Forest Service [POD/POU Property Owner, other]
X	_____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Co-op gets 1 letter
_____	X	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES	NO	
✓	_____	Protested — If Yes: Prepare protest checklist and complete
✓	_____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
_____	_____	Protested
_____	_____	Affidavit received/published correctly — If No: _____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
_____	_____	POD overlap – briefly explain_____
_____	_____	POU overlap – briefly explain_____
_____	_____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
_____	_____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
_____	_____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
_____	_____	Municipal – Review AP Memo #18 and/or AP Memo #74
_____	_____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
_____	_____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
_____	_____	Power residency affidavit – send power letter for other factors if needed
_____	_____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES	NO	
_____	_____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
_____	_____	Memo To File Re:_____
_____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

MEMORANDUM

January 08, 2020

Application for Permit: 63-34840

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

January 08, 2020

Application for Permit: 63-34841

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

January 08, 2020

Application for Permit: 63-34842

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

January 08, 2020

Application for Permit: 63-34843

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

January 08, 2020

Application for Permit: 63-34844

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

January 08, 2020

Application for Permit: 63-34845

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

January 08, 2020

Application for Permit: 63-34846

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region • 2735 Airport Way • Boise, Idaho 83705-5082
Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 8, 2020

FARMERS COOPERATIVE DITCH CO
PO BOX 69
PARMA ID 83660

Application For Permit No. 63-34840, 63-34841, 63-34842, 63-34843, 63-34844, 63-34845, 63-34846, 63-34832, 63-34833, 63-34834, 63-34835, 63-34836, 63-34837, and 63-34838

Dear Interested Party:

The above referenced applications may be of interest to you. I would like to inform you that the applications have been submitted to the Canyon County *ID Press Tribune* for advertising. I enclosed a copy of each application for your convenience. This information is also available on our website www.idwr.idaho.gov.

If you wish to formally protest the approval of the applications, you must submit a protest with the $25.00 protest fee to this office by **5:00 p.m., February 03, 2020**. You must also send a copy of your protest to the applicant.

If you have any questions regarding these applications, please contact this office at 208-334-2190.

Sincerely,

Kensie Thorneycroft
Administrative Assistant
Western Regional Office

Enclosures

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34840 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- ✓ Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____ P/D
_____ P/U

* ____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- ✓ Give to WRS – Log APPSLIST AB Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

40-200

COMMENT LETTERS

YES NO

____ ✓ Water Dist #_____
____ ✓ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____ ✓ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____ ✓ Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____ ✓ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____ ✓ IDL [POD/POU Property Owner, other]
____ ✓ US BLM [POD/POU Property Owner, other]
____ ✓ US Forest Service [POD/POU Property Owner, other]
✓ ____ Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop gets 1 letter
____ ✓ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES NO

✓ ____ Protested If Yes: Prepare protest checklist and complete
✓ ____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

____ ____ Protested
____ ____ Affidavit received/published correctly If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

____ ____ POD overlap – briefly explain_____
____ ____ POU overlap – briefly explain_____
____ ____ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____ ____ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____ ____ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____ ____ Municipal – Review AP Memo #18 and/or AP Memo #74
____ ____ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____ ____ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____ ____ Power residency affidavit – send power letter for other factors if needed
____ ____ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

_____

_____

DRAFT PERMIT

YES NO

____ ____ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____ ____ Memo To File Re:_____
____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34891 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- X Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____ P/D
_____ P/U

* _____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- _____ Give to WRS – Log APPSLIST AB Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

WBZ 40 to 200

COMMENT LETTERS

YES NO

_____ ✓ Water Dist #_____
_____ ✓ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
_____ ✓ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
_____ ✓ Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
_____ ✓ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
_____ ✓ IDL [POD/POU Property Owner, other]
_____ ✓ US BLM [POD/POU Property Owner, other]
_____ ✓ US Forest Service [POD/POU Property Owner, other]
✓ _____ Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop - gets 1 letter
_____ ✓ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES NO

✓ _____ Protested If Yes: Prepare protest checklist and complete
✓ _____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

_____ _____ Protested
_____ _____ Affidavit received/published correctly If No: _____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

_____ _____ POD overlap – briefly explain_____
_____ _____ POU overlap – briefly explain_____
_____ _____ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
_____ _____ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
_____ _____ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
_____ _____ Municipal – Review AP Memo #18 and/or AP Memo #74
_____ _____ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
_____ _____ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
_____ _____ Power residency affidavit – send power letter for other factors if needed
_____ _____ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES NO

_____ _____ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
_____ _____ Memo To File Re:_____
_____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34842 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- X Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____ P/D
_____ P/U

* ____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- ✓ Give to WRS – Log APPSLIST AB Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

WBZ 40 to 200

COMMENT LETTERS

YES	NO	
____	✓	Water Dist #_____
____	✓	IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____	✓	IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____	✓	Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____	✓	IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____	✓	IDL [POD/POU Property Owner, other]
____	✓	US BLM [POD/POU Property Owner, other]
____	✓	US Forest Service [POD/POU Property Owner, other]
✓	____	Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop - gets 1 letter
____	✓	Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES	NO	
✓	____	Protested — If Yes: Prepare protest checklist and complete
✓	____	Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES	NO	
____	____	Protested
____	____	Affidavit received/published correctly — If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES	NO	
____	____	POD overlap – briefly explain_____
____	____	POU overlap – briefly explain_____
____	____	Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____	____	Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____	____	BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____	____	Municipal – Review AP Memo #18 and/or AP Memo #74
____	____	Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____	____	Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____	____	Power residency affidavit – send power letter for other factors if needed
____	____	DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES	NO	
____	____	W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____	____	Memo To File Re:_____
____		Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34843 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- ✓ Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* ____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- ✓ Give to WRS – Log APPSLIST AB Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

WBZ 40-200

COMMENT LETTERS

YES NO

____ ✓ Water Dist #_____
____ ✓ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____ ✓ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____ ✓ Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____ ✓ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____ ✓ IDL [POD/POU Property Owner, other]
____ ✓ US BLM [POD/POU Property Owner, other]
____ ✓ US Forest Service [POD/POU Property Owner, other]
✓ ____ Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop - gets 1 letter
____ ✓ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 2/03/2020

YES NO

✓ ____ Protested If Yes: Prepare protest checklist and complete
✓ ____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

____ ____ Protested
____ ____ Affidavit received/published correctly If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

____ ____ POD overlap – briefly explain_____
____ ____ POU overlap – briefly explain_____
____ ____ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____ ____ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____ ____ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____ ____ Municipal – Review AP Memo #18 and/or AP Memo #74
____ ____ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____ ____ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____ ____ Power residency affidavit – send power letter for other factors if needed
____ ____ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

_____

_____

DRAFT PERMIT

YES NO

____ ____ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____ ____ Memo To File Re:_____
____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34844 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- X Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* ✓ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- ✓ Give to WRS – Log APPSLIST AB Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report WBZ 40-200

COMMENT LETTERS

YES NO

____ ✓ Water Dist #_____

____ ✓ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)

____ ✓ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)

____ ✓ Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]

____ ✓ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]

____ ✓ IDL [POD/POU Property Owner, other]

____ ✓ US BLM [POD/POU Property Owner, other]

____ ✓ US Forest Service [POD/POU Property Owner, other]

✓ ____ Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop – gets 1 letter

____ ✓ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES NO

✓ ____ Protested If Yes: Prepare protest checklist and complete

✓ ____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

____ ____ Protested

____ ____ Affidavit received/published correctly If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

____ ✓ POD overlap – briefly explain_____

✓ ____ POU overlap – briefly explain Farmers Co-op irr. dist. WR's

____ ✓ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist

____ ✓ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed

____ ✓ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter

____ ✓ Municipal – Review AP Memo #18 and/or AP Memo #74

____ ✓ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file

____ ✓ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file

____ ✓ Power residency affidavit – send power letter for other factors if needed

____ ✓ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____

Extension Requested On: _____ Response Received: Y ____ N____

_____

_____

DRAFT PERMIT

YES NO

____ ✓ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record

____ ✓ Memo To File Re:_____

✓ ____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63-34845 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- ✓ Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* ____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- ✓ Give to WRS – Log APPSLIST AB Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report WB240-200

COMMENT LETTERS

YES NO

____ ____ Water Dist #_____
____ ____ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____ ____ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____ ____ Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____ ____ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____ ____ IDL [POD/POU Property Owner, other]
____ ____ US BLM [POD/POU Property Owner, other]
____ ____ US Forest Service [POD/POU Property Owner, other]
____ ____ Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop - gets 1 letter
____ ____ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES NO

____ ____ Protested If Yes: Prepare protest checklist and complete
____ ____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

____ ____ Protested
____ ____ Affidavit received/published correctly If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

____ ____ POD overlap – briefly explain Farmers + one for Peterson but neither should be considered
____ ____ POU overlap – briefly explain
____ ____ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____ ____ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____ ____ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____ ____ Municipal – Review AP Memo #18 and/or AP Memo #74
____ ____ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____ ____ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____ ____ Power residency affidavit – send power letter for other factors if needed
____ ____ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES NO

____ ____ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____ ____ Memo To File Re:_____
____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

July 2019

REVIEW CHECKLIST -- APPLICATION FOR PERMIT

Application # 63 - 34846 Reviewer AB Date 1/8/20

REQUIRED INFORMATION – COMPLETE & ACCURATE – INITIAL DE

- ✓ Name (corporation or partnership, names & addresses for director, officers, &/or other partners must be included – Rule 35.03.b.i) _____ bus. entity #
- ✓ Address
- ✓ Source * (see USGS quad for source/trib names, comment for local name)
- ✓ P/D (10 acres for spring, lot & block info for subdivisions)
- ✓ County *
- ✓ Quantity (flow & /or storage volume)
- ✓ Period of use *
- ✓ Nature of use (list details in app. item 8 if non-irrigation)
- X Municipal Checklist
- ✓ Description of diverting works
- ✓ Time required for beneficial use of water
- ✓ P/U
- ✓ Map (show T, R, Sect, POD & POU)
- ✓ Signature (need title of signatory if applicable)
- ✓ Correct fee paid
- ✓ Fee amount, receipt number, receipt date, and reviewer initials recorded on appl.

Government Lots
_____P/D
_____P/U

* ____ tributary, county &/or irrigation season corrected per dept. standards w/o amended appl. per AP Memo #9

- ✓ Attach proof report
- ✓ Shapefile completed – attach with proof report
- ✓ Give to WRS – Log APPSLIST AT Initials

PRE-ADVERTISING ANALYSIS

YES	NO	
✓		Bs 63 GW? Water bearing zone legal notice remark required
	✓	Bs 63 GW Restricted Area (Above Star)? Must appropriate deeper than 200' or mitigate
	✓	Bs 63 Surface water above Star & consumptive use? Cannot process unless mitigated
	✓	Mitigation plan (consumptive use & POD closed area) – legal notice remark + mitigation checklist
	✓	Critical Ground Water Area – send letter if cannot process
	✓	Ground Water Mngt. Area – send letter if cannot process
	✓	Bs 77, 78, 79 – 42-111 D/S any source or community well, normal process; all others use Salmon/Clearwater Area Processing
	✓	W&S Rv – Bs 77 or 78 + legal notice remark, W&S Workflow application record
	✓	W&S Rv – Bs 51 or 55, attach Bs 51 - 55 W&S Watersheds checklist
	✓	Water Dist. 67 – send Bs 67 June 15 cutoff form letter to confirm BU. possible prior to 6/15
	✓	Waste Water – send form letter
	✓	Trust Water – send form letter (AdHoc/Reports tab) + legal notice remark + TW checklist
	✓	South Ada Co. GW Area of Concern – send form letter
	✓	South Canyon Co. GW Area of Concern – send form letter
	✓	US BLM is POD/POU Property Owner, Verify location with Applicant and check w/ BLM

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

ADVERTISING

YES	NO	
	✓	*STATEWIDE ADVERTISING* (> 10 cfs or > 1000 af storage)
✓		Legal Notice Remarks (WB Zone, Wild & Scenic, Subdivision Info, Mitigation, etc.) – See attached proof report

WB2 40-200

COMMENT LETTERS

YES NO

____ ✓ Water Dist #_____
____ ✓ IDFG [SW "fish live-in" AP Memo #62, Bs 77-79, other] (____ reply in file)
____ ✓ IDEQ [Bs 77-79, Land Application, Basin Recharge, Dairy, PWS, other] (____ reply in file)
____ ✓ Western Dam Safety [Storage Dam (n/a excavated ponds) All w/ constructed embankments]
____ ✓ IDWR Planning Bureau [Min. Stream Flow Bs 77-79, Protected Rv, other]
____ ✓ IDL [POD/POU Property Owner, other]
____ ✓ US BLM [POD/POU Property Owner, other]
____ ✓ US Forest Service [POD/POU Property Owner, other]
✓ ____ Irrigation Entity [Overlap GW Irr, Waste water, other]: Farmers Coop - gets 1 letter
____ ✓ Other [Previous Protestants in Area, ect.] – list here or see attached

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 02/03/2020

YES NO

✓ ____ Protested If Yes: Prepare protest checklist and complete
✓ ____ Affidavit received/published correctly? If No, Re-advertise.

Re-Adv Protest Deadline _____

YES NO

____ ____ Protested
____ ____ Affidavit received/published correctly If No: ____ Re-advertised & published correctly

Re-Adv Comment Letters To: _____

POST-ADVERTISING ANALYSIS

YES NO

____ ✓ POD overlap – briefly explain_____
____ ✓ POU overlap – briefly explain_____
____ ✓ Large diversion > 5 cfs, > 500 af storage or > 200 acres – attach large diversion checklist
____ ✓ Public Land Access – IDL, BLM, USFS owns POD/POU land, Rule 40.05.e info needed
____ ✓ BLM or USFS Stockwater Appl. – consider Joyce Livestock Decision – send form letter
____ ✓ Municipal – Review AP Memo #18 and/or AP Memo #74
____ ✓ Commercial, Heating/Cooling, Industrial, WQI, etc. – Rate request justified in file
____ ✓ Storage Use – AP Memo #76 complete for explanation/justification of volume request in file
____ ✓ Power residency affidavit – send power letter for other factors if needed
____ ✓ DP fee upgrade : ____ Paid ____WR & WC Files Documented ___ Not Paid = SO follow up

ADD INFO Requested On: _____ Response Received: Y ____ N____
Extension Requested On: _____ Response Received: Y ____ N____

DRAFT PERMIT

YES NO

____ ____ W&S Rv – Bs 51, 55, 77 or 78 W&S Workflow/spreadsheet update for permit record
____ ____ Memo To File Re:_____
____ Draft approval created w/ Map (WRLayouts - 'Print Attachment Page') & saved to backfile

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082
Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

January 9, 2020

ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054

Application For Permit No. 63-34840, 63-34841, 63-34842, 63-34843, 63-34844, 63-34845, 63-34846, 63-34832, 63-34833, 63-34834, 63-34835, 63-34836, 63-34837, and 63-34838

Dear Applicants:

The Department of Water Resources has received your water right applications. Please refer to the numbers referenced above in all future correspondence regarding these applications.

A legal notice of the applications has been prepared and is scheduled for publication in the PRESS TRIBUNE on 1/16/2020 and 1/23/2020. Protests to these applications may be submitted for a period ending ten (10) days after the second publication.

If the application are protested, you will be sent a copy of each protest. All protests must be resolved before the applications can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the applications are not protested, the Department will process your applications and notify you of any action taken on the applications. If your applications are approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding these applications.

Sincerely,

Kensie Thorneycroft
Administrative Assistant

CC:
SPF WATER ENGINEERING LLC

Thorneycroft, Kensie

From: Thorneycroft, Kensie
Sent: Thursday, January 09, 2020 2:35 PM
To: 'IDAHO PRESS-TRIBUNE'
Subject: Canyon Legal Notice
Attachments: Cover Letter.docx; Legal Notice.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning Legal Clerk,

I am sending you the new legal notices, please send confirmation to my email.

Please see the attached ad for publication on 01/16/2020 & 01/23/2020.

Please confirm these are okay to publish as shown.

Kensie Thorneycroft
Administrative Assistant 1
Idaho Dept. of Water Resources
208-334-2190

January 9, 2020

LEGAL NOTICE DEPARTMENT

PRESS TRIBUNE
PO BOX 9399
NAMPA, ID 83652

RE: Application For Permit No.(s): 63-34832, 63-34833, 63-34834, 63-34835, 63-34836, 63-34837, 63-34838, 63-34840, 63-34841, 63-34842, 63-34843, 63-34844, 63-34845, 63-34846, 63-34847

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 2/3/2020. Your cooperation is appreciated.

Sincerely,
Kensie Thorneycroft
Administrative Assistant

Enclosure(s)

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34832
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34833
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34834
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34835
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34836
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.06 CFS

Total Diversion: 0.1 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.9
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34837
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.04 CFS
Total Diversion: 0.08 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34838
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34840
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34841
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.06 CFS
Total Diversion: 0.1 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.1
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34842
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34843
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.2
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34844
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34845
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.2
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34846
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020

Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34847
MICHAEL R GOODELL
14899 SAND HOLLOW RD
CALDWELL, ID 83607-7537
Point of Diversion NWSW S10 T05N R03W CANYON County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 1 CFS
Date Filed: 1/2/2020
Place Of Use: IRRIGATION
T05N R03W S10 NESW NWSW SWSW SESW
T05N R03W S15 NWNE SWNE NENW NWNW SENW
Total Acres: 130
Water bearing zone to be appropriated is from 300 to 420 feet.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see **www.idwr.idaho.gov.** Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of $25.00 for each application on or before 02/03/2020 The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director Published on 1/16/2020 and 1/23/2020

RECEIVED
JAN 3 1 2020
WATER RESOURCES
WESTERN REGION

29512 1984201

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
)SS.
County of Canyon and Ada)

Sharon Jessen
of the State of Idaho, being of first
duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said Counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
01/16/2020 01/23/2020

Sharon Jessen
STATE OF IDAHO)
County of Canyon and Ada)

On this 23rd day of January in the year of 2020 before me a Notary Public, personally appeared. Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Notary Public for Idaho
My Commission expires 06/28/2023

COLLEEN R. NIELSEN NOTARY PUBLIC Comm No. 70215 STATE OF IDAHO

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34832
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34833
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34834
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34835
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34836
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.06 CFS
Total Diversion: 0.1 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.9
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34841
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.06 CFS
Total Diversion: 0.1 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.1
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34842
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34843
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.2
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34844
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34845
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.2
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34837
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.04 CFS
Total Diversion: 0.08 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34838
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34840
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34846
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34847
MICHAEL R GOODELL
14899 SAND HOLLOW RD
CALDWELL, ID 83607-7537
Point of Diversion NWSW S10 T05N R03W CANYON County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 1 CFS
Date Filed: 1/2/2020
Place Of Use: IRRIGATION
T05N R03W S10 NESW NWSW SWSW SESW
T05N R03W S15 NWNE SWNE NENW NWNW SENW
Total Acres: 130
Water bearing zone to be appropriated is from 300 to 420 feet.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of $25.00 for each application on or before 02/03/2020 The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

January 16, 23, 2020 1984201

RECEIVED
JAN 31 2020
WATER RESOURCES
WESTERN REGION

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
T (208) 629-7447
F (208) 629-7559
E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34832 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34832 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34832 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34832 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

One More Mile LLC
3255 Kesler Lane
Nyssa, OR 97913
T (541) 212-0623
E sharla@froererfarms.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

Lori Graves
SPF Water Engineering
300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
E lgraves@spfwater.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
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( ) Facsimile
( ) Email

_____
S. Bryce Farris

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JAN 31 2020
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WESTERN REGION

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34833 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34833 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34833 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34833 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

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E sharla@froererfarms.com

(X) U.S. Mail, Postage Prepaid
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( ) Email

Lori Graves
SPF Water Engineering
300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
E lgraves@spfwater.com

(X) U.S. Mail, Postage Prepaid
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_____
S. Bryce Farris

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JAN 31 2020
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F (208) 629-7559
E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34834 IN THE NAME OF ONE MORE MILE LLC

NOTICE OF PROTEST

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34834 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34834 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34834 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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T (208) 383-4140
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F (208) 629-7559
E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34835 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34835 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34835 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34835 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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3255 Kesler Lane
Nyssa, OR 97913
T (541) 212-0623
E sharla@froererfarms.com

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( ) Facsimile
( ) Email

Lori Graves
SPF Water Engineering
300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
E lgraves@spfwater.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

_____
S. Bryce Farris

RECEIVED
JAN 31 2020
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WESTERN REGION

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1101 W. River Street, Suite 110
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Boise, Idaho 83707-7985
T (208) 629-7447
F (208) 629-7559
E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34836 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34836 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34836 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34836 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

One More Mile LLC
3255 Kesler Lane
Nyssa, OR 97913
T (541) 212-0623
E sharla@froererfarms.com

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Lori Graves
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300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
E lgraves@spfwater.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

_____
S. Bryce Farris

RECEIVED
JAN 31 2020
WATER RESOURCES
WESTERN REGION

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1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
T (208) 629-7447
F (208) 629-7559
E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34837 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34837 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34837 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34837 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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3255 Kesler Lane
Nyssa, OR 97913
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E sharla@froererfarms.com

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( ) Email

Lori Graves
SPF Water Engineering
300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
E lgraves@spfwater.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

_____
S. Bryce Farris

RECEIVED
JAN 31 2020
WATER RESOURCES
WESTERN REGION

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
T (208) 629-7447
F (208) 629-7559
E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34838 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34838 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34838 be denied in all respects. In the alternative, the Protestant

Receipt# W048013 LE 01/30/2020

respectfully requests that any approval of Application for Permit No. 63-34838 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

One More Mile LLC
3255 Kesler Lane
Nyssa, OR 97913
T (541) 212-0623
E sharla@froererfarms.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

Lori Graves
SPF Water Engineering
300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
E lgraves@spfwater.com

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_____
S. Bryce Farris

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JAN 31 2020
WATER RESOURCES
WESTERN REGION

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Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34840 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34840 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34840 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34841 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34841 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34841 be denied in all respects. In the alternative, the Protestant

Receipt# W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34841 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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T (208) 383-4140
E lgraves@spfwater.com

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34842 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34842 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34842 be denied in all respects. In the alternative, the Protestant

Receipt #W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34842 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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T (208) 383-4140
E lgraves@spfwater.com

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34843 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34843 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34843 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34843 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34844 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34844 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34844 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34844 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34845 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34845 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34845 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34845 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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E bryce@sawtoothlaw.com

Attorneys for Protestant
Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34846 IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF PROTEST**

COMES NOW, Farmers Co-Operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest to Application for Permit No. 63-34846 ("Application"), filed in the name of One More Mile LLC.

The bases for the Protest are:

1. The Application will cause injury to existing water rights, specifically those of the Protestants.

2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a) through (g).

3. The Application is not compliant with Idaho law, including but not limited to, Idaho Code Section 67-6537.

4. For such other and further reasons as may be set forth at the hearing on this matter.

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34846 be denied in all respects. In the alternative, the Protestant

Receipt # W048013 LE 01/31/2020

respectfully requests that any approval of Application for Permit No. 63-34846 be conditioned upon complete protection of the Protestant's existing water rights.

DATED this 31st day of January, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

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_____
S. Bryce Farris

State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION • 2735 W AIRPORT WAY • BOISE ID 83705-5082
Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: idwr.idaho.gov

Brad Little
Governor

GARY SPACKMAN
Director

February 5, 2020

ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054

RE: Application for Permit No(s). 63-34840-63-34846 & 63-34832-63-34838

Dear Applicant:

Enclosed is a copy of the protests filed against the issuance of the above-referenced applications. As part of the applications process, the following are options available for resolution of contested (protested) applications:

-Direct contact with the protestant to determine what is being disputed in the application and parties attempting to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest.

-Formal Proceedings consist of a pre-hearing conference & hearing through the water appropriation statute/rule process. A pre-hearing conference identifies the protest issues and reviews the resolution possibilities with the parties. If the issues cannot be resolved, a formal hearing will be scheduled.

-Mediation through a certified professional mediator. The advantages can include: reduced costs and time that are associated with formal proceedings, the ability to address non-water concerns, more influence over a final settlement, and fast track processing by the Department for parties reaching a mediated agreement. If you are interested in this option, please contact our office for details.

Please consider with the protestant the best option for resolution of the contested application.

The Department of Water Resources may prepare to schedule a prehearing conference in the matter of the above referenced application for permit, which has been protested.

Please use the enclosed calendars to identify all days you would be available for a potential prehearing conference by phone or in office for this protested application. Please provide your calendar response by **February 28, 2020.**

If you would like additional information, or need to further discuss the process, feel free to contact the Western Regional Office, phone 334-2190.

Sincerely,

Kensie Thorneycroft
Administrative Assistant

Enclosures: (14) Protest
(1) Prehearing Availability Calendar

CC: SPF WATER ENGINEERING
SAWTOOTH LAW OFFICE

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT TO APPROPRIATE WATER NO.	)	
63-34840 to 63-34846	)	**NOTICE OF PRE-HEARING CONFERENCE**
63-34832 to 63-34838		
IN THE NAME OF:	)	
ONE MORE MILE LLC	)	

On 1/2/2020, ONE MORE MILE LLC, filed an Appropriation of a Water Right Permit No. 63-34840 with the Idaho Department of Water Resources (department). Protest(s) were filed by **FARMERS COOPERATIVE DITCH CO**

The department has scheduled the matter for pre-hearing conference on Thursday, March 19, 2020, beginning at 9:00 AM, at IDAHO DEPT OF WATER RESOURCES, Western Conference Room, WESTERN REGION 2735 AIRPORT WAY, BOISE, ID, 83705.

Agenda items for the pre-hearing conference will include:

1. Identify spokesman and/or counsel representing the protestant
2. Review of the application
3. Identify issues of protest
4. Designate date for identifying witnesses
5. Designate target date for conducting administrative hearing if resolution is not possible during the pre-hearing conference.

The department encourages the applicant and protestants to discuss and resolve the protests before the pre-hearing conference. If private discussions are not possible or do not resolve the protests, the department's Rules of Procedure provide for a pre-hearing conference to be held before scheduling a formal hearing.

The pre-hearing conference provides another informal opportunity for the applicant and protestants to meet. The parties often settle their differences at the pre-hearing conference. If a formal hearing is needed to resolve the protests, the pre-hearing conference serves as an opportunity to formulate or simplify the issues, obtain concessions of fact or identification of documents to avoid unnecessary proof, schedule discovery (when discovery is allowed), arrange for the exchange of proposed exhibits or prepared testimony, limit witnesses, schedule hearings, establish procedure at hearings, and address other matters that may expedite orderly conduct and disposition of the proceeding.

It is important for all parties to give considerable thought to each of these matters before appearing at the pre-hearing conference and to make the most of the opportunity to resolve the dispute informally.

The pre-hearing conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the pre-hearing conference, please notify the department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Kensie Thorneycroft, (208) 334-2190.

Dated this 3rd day of March, 2020.

Kensie Thorneycroft

For: Nick Miller
Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of March, 2020, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

Document Served: Notice Of Pre-Hearing Conference
Hearing Procedure for Application for Permit

ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054

FARMERS COOPERATIVE DITCH CO
C/O SAWTOOTH LAW OFFICES PLLC
ATTN S BRYCE FARRIS
1101 W RIVER ST STE 110
PO BOX 7985
BOISE, ID 83701

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE, ID 83706-6660

Kensie Thorneycroft
Administrative Assistant

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT No 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF ONE MORE MILE LLC	))))))	**ORDER CONSOLIDATING MATTERS FOR HEARING, NOTICE OF HEARING, AND SCHEDULING ORDER**

On January 2, 2020, One More Mile LLC (Applicant) filed Applications for Permit to Appropriate Water No. 63-34832 through 63-34838, and 63-34840 through 63-34846 with the Idaho Department of Water Resources (Department). The Department published notice of each of the 14 applications in the Idaho Press-Tribune for two consecutive weeks on January 16 and January 23, 2020. Farmer's Co-Operative Ditch Company timely protested each of the applications.

The Department held a pre-hearing conference on March 19, 2020. At the conference, the parties asked to schedule a hearing and to initiate discovery. The parties did not oppose a proposal to consolidate the contested applications for hearing.

ORDER CONSOLIDATING MATTERS FOR HEARING

Pursuant to Rule 556 of the Department's rules of procedure (IDAPA 37.01.01), "[t]he agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced." In this case, all 14 applications are nearly identical as each proposes domestic and irrigation use of ground water for similarly-sized parcels within a proposed residential development. The parties for the applications are identical and the issues raised by the protestant against each application are identical. Consolidating these matters for hearing will promote administrative efficiency and limit the expenditure of resources by the parties.

IT IS HEREBY ORDERED that the contested cases for Applications for Permit to Appropriate Water No. 63-34832 through 63-34838, and 63-34840 through 63-34846 are consolidated for hearing.

NOTICE OF HEARING

The Department has scheduled the matter for a hearing beginning at 9:00 a.m. on Monday, June 15, 2020 at IDAHO DEPARTMENT OF WATER RESOURCES, STATE OFFICE, located at 322 E. Front St., 6th Floor, Boise, ID 83720.

The presiding officer at the hearing will be Nick Miller, whose mailing address is 2375 Airport Way, Boise, ID 83705 and whose email address is Nick.Miller@IDWR.Idaho.gov.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the Department's Rules of Procedure requires that a copy be provided to the presiding officer.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department, IDAPA 37.01.01, and Water Appropriation Rules 40 and 45. Copies of the code/rules are obtained from the Department's website, www.idwr.idaho.gov, or upon request.

All parties appearing in the matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the contested applications.

The hearing will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the conference, please notify the Department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities etc., should be directed to Kensie Thorneycroft, at (208) 334-2190.

SCHEDULING ORDER

1. General discovery may begin immediately and shall end on May 18, 2020.
2. Written requests for discovery shall be either interrogatories or requests for documents.
3. Answers to written discovery must be served on the requesting party within twenty-one (21) days of service of the request. All responses to discovery shall be served on or before the end of the discovery period.
4. Depositions shall be completed on or before May 18, 2020.
5. On or before June 1, 2020, each party must disclose to all other parties and the hearing officer, in writing, the identity of all witnesses that will or may testify for the party at the hearing.
6. On or before June 1, 2020, each party seeking to offer exhibits at the hearing must physically serve on all other parties and the hearing officer copies of the exhibits. Service of the proposed exhibits will satisfy Rule 606 of the Department's rules of procedure. Applicant's exhibits shall be numbered between 1 and 100. Protestant's exhibits shall be numbered between 101 and 200.
7. To avoid duplication of exhibits, pursuant to Rule 602 of the Department's Rules of Procedure (IDAPA 37.01.01), the hearing officer will officially notice the following documents from the application file and Department records. For ease of reference, these documents have been assigned the following exhibit numbers:

IDWRl through IDWR14 Applications for Permit No. 63-34832 through 63-34838, and 63-34840 through 63-34846 (January 2, 2020)

IDWR15 through IDWR28 Notices of Protest – Farmer's Co-Operative Ditch Company.

Dated this 6th day of April, 2020

Nick Miller
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April 2020, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, certified mail with return receipt, postage prepaid and properly addressed to the following:

Documents Served:

- Order Consolidating Matters for Hearing, Notice of Hearing, and Scheduling Order
- Hearing Procedures for Application for Permit

For Applicant One More Mile LLC
ALBERT BARKER
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE ID 83701-2139

For Protestant Farmer's Co-Operative Ditch Company
S. BRYCE FARRIS
SAWTOOTH LAW OFFICES, PLLC
1101 W. RIVER ST., STE. 110
P.O. BOX 7985
BOISE, IDAHO 83707
FACSIMILE: (208) 629-7559

Kensie Thorneycroft
Administrative Assistant 1

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
P (208) 629-7447
F (208) 629-7559
E *bryce@sawtoothlaw.com*

Attorneys for Farmers Co-Operative Ditch Company

RECEIVED
APR 08 2020
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NOS.:

63-34840 to 63-34846

63-34832 to 63-34838

IN THE NAME OF ONE MORE MILE LLC

NOTICE OF SERVICE OF FARMERS CO-OPERATIVE DITCH COMPANIES' FIRST SET OF DISCOVERY REQUESTS TO ONE MORE MILE LLC

NOTICE is hereby provided that Protestant, Farmers Co-Operative Ditch Company (hereinafter referred to as "Ditch Company") served its First Set of Discovery Requests to One More Mile LLC, through counsel, at the e-mail addresses below:

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139

apb@idahowaters.com

DATED this 6th day of April, 2020.

RECEIVED
APR 08 2020
DEPARTMENT OF
WATER RESOURCES

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for the Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April, 2020, I caused a true and correct copy of the foregoing **NOTICE OF SERVICE OF THE DITCH COMPANY'S FIRST SET OF DISCOVERY REQUESTS TO ONE MORE MILE LLC** to be served by the method indicated below, and addressed to the following:

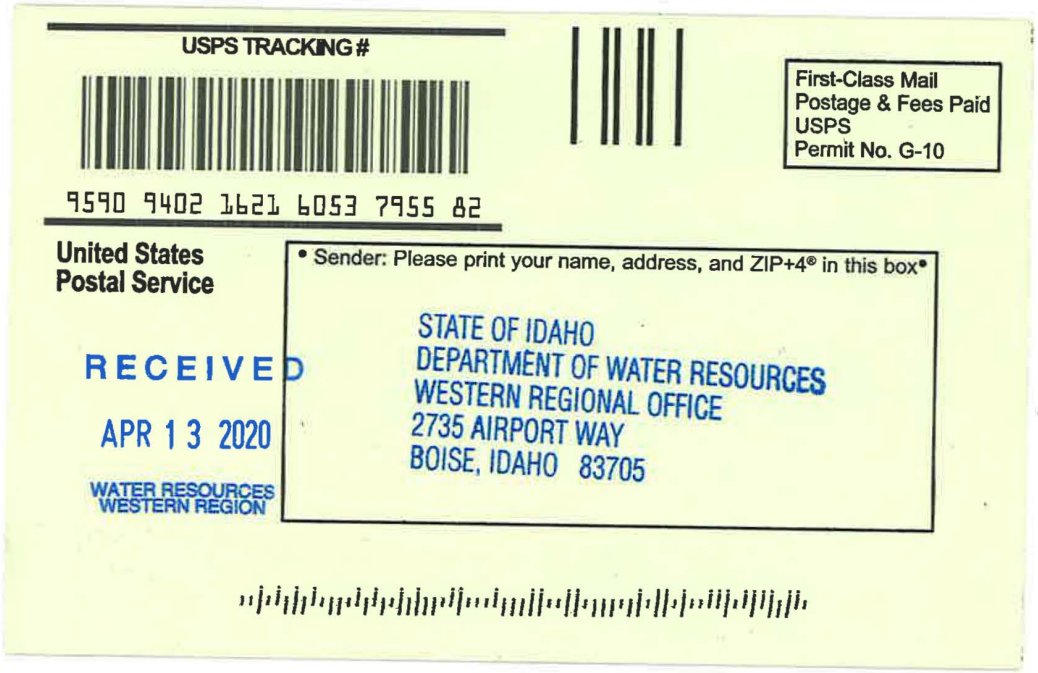
Albert P. Barker
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
P (208) 336-0700
F (208) 344-6034
E *apb@idahowaters.com*

( ) U.S. Mail, Postage Prepaid
(X) Hand Delivered
( ) Overnight Mail
( ) Facsimile
(X) Email

Idaho Department of Water Resources
322 E. FRONT ST.
Boise, ID 83720-0098

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

_____
S. Bryce Farris



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DEPARTMENT OF WATER RESOURCES
WESTERN REGIONAL OFFICE
2735 AIRPORT WAY
BOISE, IDAHO 83705

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Albert Barker
Barker Rosholt & Simpson LLP
1010 Jefferson St Ste 102
PO Box 2139
Boise ID 83701

9590 9402 1621 6053 7955 82

2. Article Number (Transfer from service label)

7016 1370 0000 2332 7910

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Aiden Evanich

C. Date of Delivery 4/9/20

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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- ☐ Certified Mail®
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- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
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- ☐ Return Receipt for Merchandise
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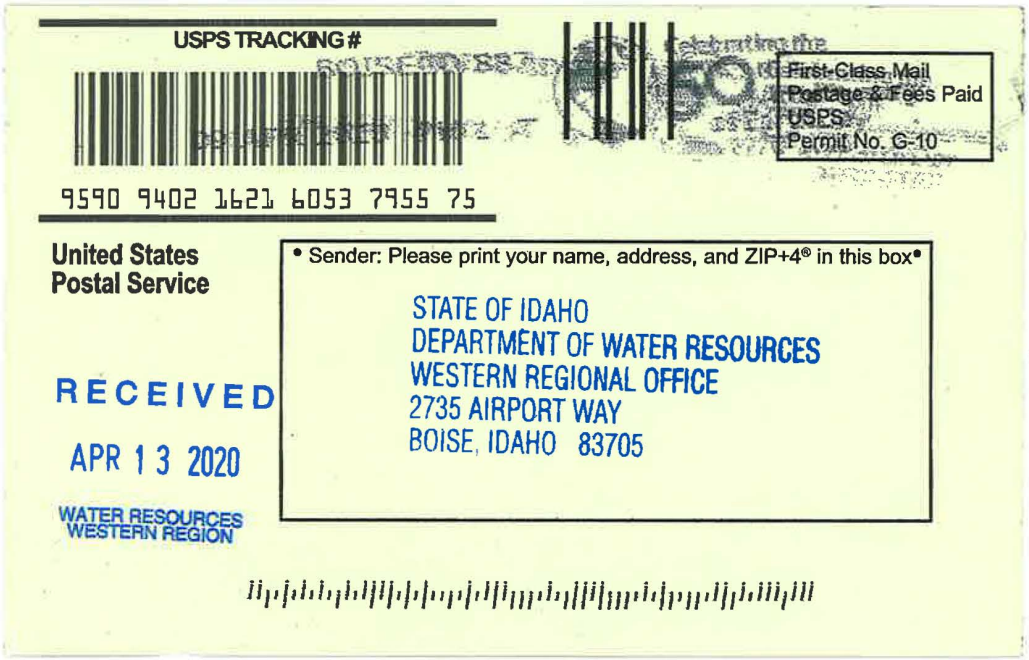
Order Consolidating Matters for Hearing, Notice of Hearing, and Scheduling Order
IPRMT No: 63-34832-63-34838
63-34840-63-34846
Sent: 04/06/2020

Sent To
Albert Barker / Barker Rosholt & Simpson LLP
Street and Apt. No., or PO Box No.
1010 Jefferson St Ste 102 / Po Box 2139
City, State, ZIP+4®
Boise ID 83701

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
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2735 AIRPORT WAY
BOISE, IDAHO 83705
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SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

S. Bryce Farris
Sawtooth Law Offices PLLC
1101 W River St Ste 110
PO Box 7985
Boise ID 83707

9590 9402 1621 6053 7955 75

2. Article Number *(Transfer from service label)*

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature] ☐ Agent ☐ Addressee

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- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
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- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
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- ☐ Adult Signature Restricted Delivery $

Postage
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Total Postage and Fees
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Order Consolidating Matters for Hearing, Notice of Hearing, and Scheduling Order.

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PMTT: 63-34832 to 63-34838
63-34820 to 63-34846
Sent: 04/06/2020

Sent To
S. Bryce Farris / Sawtooth Law Offices PLLC
Street and Apt. No., or PO Box No.
1101 W River St Ste 110 / PO Box 7985
City, State, ZIP+4®
Boise, ID 83707

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

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WATER RESOURCES
WESTERN REGION

Attorneys for One More Mile LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 In the name of One More Mile LLC	**NOTICE OF APPEARANCE**

NOTICE, is hereby provided that Barker Rosholt & Simpson LLP enters an appearance as counsel of record for One More Mile LLC in the above-reference matter. Correspondence and fillings should be directed to the undersigned at the above-listed address.

DATED this 6th day of April, 2020.

Albert P. Barker
Attorney for One More Mile LLC

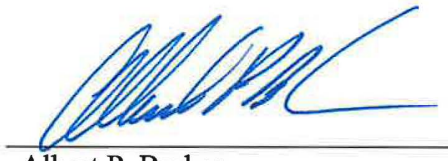
SCANNED
APR 14 2020

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April, 2020, I served a copy of the foregoing **NOTICE OF APPEARANCE** by the method indicated below, and addressed to the following:

S. Bryce Farris
Sawtooth Law
1101 W River St., Suite 110
Boise, ID 83702

____ Hand Delivery
____ U.S. Mail
____ Facsimile
____ Overnight Mail
__x__ Email: bryce@sawtoothlaw.com



Albert P. Barker

SCANNED
APR 14 2020

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

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APR 10 2020
WATER RESOURCES
WESTERN REGION

Attorneys for One More Mile LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 In the name of One More Mile LLC	**NOTICE OF SERVICE OF ONE MORE MILE LLC'S FIRST DISCOVERY REQUESTS TO FARMERS' COOPERATIVE DITCH COMPANY**

NOTICE, is hereby provided that One More Mile LLC served its *First Discovery Requests* upon Farmers' Cooperative Ditch Company, through counsel, at the email addresses listed below:

S. Bryce Farris bryce@sawtoothlaw.com
Sawtooth Law
P.O. Box 7985
Boise, ID 83707

DATED this 6th day of April, 2020.

Albert P. Barker
Attorneys for One More Mile LLC

SCANNED
APR 14 2020

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April, 2020, I served a true and correct copy of the foregoing *Notice of Service of One More Mile LLC's First Discovery Requests* on the following by the method indicated:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	____ Hand Delivery __x__ U.S. Mail ____ Facsimile ____ Overnight Mail
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery __x__ U.S. Mail ____ Facsimile ____ Overnight Mail __x__ Email: bryce@sawtoothlaw.com

Albert P. Barker

SCANNED
APR 14 2020

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
P (208) 629-7447
F (208) 629-7559
E *bryce@sawtoothlaw.com*

Attorneys for Farmers Co-Operative Ditch Company

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APR 28 2020
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NOS.:

63-34840 to 63-34846

63-34832 to 63-34838

IN THE NAME OF ONE MORE MILE LLC

NOTICE OF SERVICE OF PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S RESPONSES TO APPLICANT'S FIRST SET OF DISCOVERY REQUESTS

NOTICE is hereby provided that Protestant, Farmers Co-Operative Ditch Company served its Responses to Applicant's First Set of Discovery Requests to Protestant Farmers Co-Operative Ditch Company, through counsel, at the e-mail addresses below:

Albert P. Barker
Barker Rosholt & Simpson LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139

apb@idahowaters.com

DATED this 27th day of April, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for Farmers Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 2020, I caused a true and correct copy of the foregoing document to be served by the method indicated below, and addressed to the following:

Albert P. Barker
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
P (208) 336-0700
F (208) 344-6034
E *apb@idahowaters.com*

(x) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
(x) Email

Idaho Department of Water Resources
322 E. FRONT ST.
Boise, ID 83720-0098

(x) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

S. Bryce Farris

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

Attorneys for One More Mile LLC

RECEIVED
MAY 13 2020
WATER RESOURCES
REGION

RECEIVED
APR 29 2020
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 In the name of One More Mile LLC	**NOTICE OF SERVICE OF ONE MORE MILE LLC'S RESPONSE TO FARMERS CO-OPERATIVE DITCH COMPANY'S FIRST DISCOVERY REQUESTS**

NOTICE, is hereby provided that One More Mile LLC served its *Response to Farmers Co-operative Ditch Company's First Discovery Requests* through its counsel, at the email addresses listed below:

S. Bryce Farris bryce@sawtoothlaw.com
Sawtooth Law
P.O. Box 7985
Boise, ID 83707

DATED this 27th day of April, 2020.

Albert P. Barker
Attorneys for One More Mile LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 2020, I served a true and correct copy of the foregoing *Notice of Service of One More Mile LLC's Response to Farmers Co-operative Ditch Company's First Discovery Requests* on the following by the method indicated:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	____ Hand Delivery __x__ U.S. Mail ____ Facsimile ____ Overnight Mail
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery __x__ U.S. Mail ____ Facsimile ____ Overnight Mail __x__ Email: bryce@sawtoothlaw.com



Albert P. Barker

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

Attorneys for One More Mile LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 In the name of One More Mile LLC	ONE MORE MILE, LLC'S EXHIBIT LIST

COMES NOW, the Applicant, One More Mile LLC and hereby submit the following exhibit list.

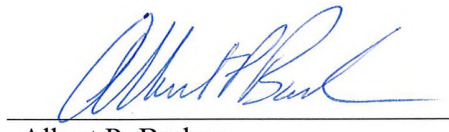
Exhibit List

1. Warranty Deed Bayview Ranch to One More Mile 1/31/2019
2. Orchard Tract
3. 2007 Administrative Decision – Canyon County
4. Application (example) 63-34840
5. IDWR Processing Memo
6. IDWR Amended Moratorium Order
7. Well Log
8. Well map
9. Lower Boise Ground Water Hydrographs
10. Share Certificate – One More Mile
11. Email Correspondence: Matt Wilke – Netty Davis
12. Farmers Co-op Response to Discovery Request
13. Farmers Co-op (30)(b)(6) deposition transcript
14. Map of Farmers Co-op Service Area
15. Farmers Co-op Articles of Incorporation
16. Amended By-laws of Farmers Co-op
17. Minutes of Farmers Co-op Board January 15, 2003, March 12, 2003 and August 13, 2003.

18. Adoption of Resolution by Farmers Co-op, August 13, 2003.
19. Letter to Farmers Co-op from Bryce Farris September 5, 2003.
20. Minutes of Board September 11, 2003
21. Minutes of Board September 15, 2004
22. Minutes of Board August 16, 2006
23. Group of correspondence between Farmers Co-op and Hurtz Water Users 2009
24. Group of correspondence between Farmers Co-op and Hansens 2006
25. January 2020 Board Minutes
26. February 2020 Board Minutes
27. March 2020 Board Minutes
28. March 2020 Resolution
29. Agreement with Watson
30. Idaho Code § 67-6532

One More Mile reserves the right to introduce exhibits on Farmers Co-op exhibit list in this matter. Additional exhibits may be introduced at the hearing for illustrative purposes, to aid or explain witness testimony, or for rebuttal or cross-examination purposes.

DATED this 1st day of June, 2020.



Albert P. Barker
Attorney for One More Mile LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of June, 2020, I served a copy of the foregoing **ONE MORE MILE LLC'S EXHIBIT LIST** by the method indicated below, and addressed to the following:

Idaho Dept. of Water Resources
322 E Front St
Boise, Idaho 83720-0098

____ Hand Delivery
____ U.S. Mail
____ Facsimile
____ Overnight Mail
__x__ Email: nick.miller@idwr.idaho.gov

S. Bryce Farris
Sawtooth Law
1101 W River St., Suite 110
Boise, ID 83702

____ Hand Delivery
____ U.S. Mail
____ Facsimile
____ Overnight Mail
__x__ Email: bryce@sawtoothlaw.com

Albert P. Barker

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

Attorneys for One More Mile LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 In the name of One More Mile LLC	ONE MORE MILE, LLC'S WITNESS LIST

COMES NOW, the Applicant, One More Mile LLC and hereby submit the following witness list.

Witness List:

1. Craig Froerer
2. Sharla Froerer
3. Matt Wilke
4. Alan Mills
5. Lori Graves
6. John or Brad Watson
7. Rex Barrie
8. Tom Johnston
9. Any witness called by Farmers Co-op

Additional witnesses may be called for rebuttal or foundational purposes. One More Mile reserves the right to use rebuttal witnesses in addition to those identified above. One More Mile reserves the right to call any other witness identified by the parties.

//

DATED this 1st day of June, 2020.

Albert P. Barker
Attorney for One More Mile LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of June, 2020, I served a copy of the foregoing **ONE MORE MILE LLC'S WITNESS AND EXHIBIT LIST** by the method indicated below, and addressed to the following:

Idaho Dept. of Water Resources
322 E Front St
Boise, Idaho 83720-0098

___ Hand Delivery
__x__ U.S. Mail
____Facsimile
____ Overnight Mail
__x__ Email: nick.miller@idwr.idaho.gov

S. Bryce Farris
Sawtooth Law
1101 W River St., Suite 110
Boise, ID 83702

____ Hand Delivery
____ U.S. Mail
____ Facsimile
____ Overnight Mail
__x__ Email: bryce@sawtoothlaw.com

Albert P. Barker

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
P (208) 629-7447
F (208) 629-7559
E *bryce@sawtoothlaw.com*

Attorneys for Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NOS.: 63-34840 to 63-34846 63-34832 to 63-34838 IN THE NAME OF ONE MORE MILE LLC	**PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S LIST OF WITNESSES AND LIST OF EXHIBITS**

COMES NOW Protestant, Farmers Co-Operative Ditch Company (hereinafter referred to as "Ditch Company"), and pursuant to *Order Consolidating Matters for Hearing, Notice of Hearing, and Scheduling Order* dated April 6, 2020 in this matter, hereby submits the following list of witnesses who it may call to testify at hearing and the following list of exhibits that may be presented at hearing which is currently scheduled to begin on June 15, 2020.

DITCH COMPANY WITNESSES

1. Tom Johnston, Board Member, Ditch Company
2. Rod Neilson, President, Ditch Company
3. Netty Davis, Secretary, Ditch Company
4. Rick Farmer, Prior Developer of the One More Mile property.
5. Myron Peterson, Prior owner of the One More Mile property.

6. Sharla and Craig Froerer, Members of Applicant.

7. Matt Wilke, Mills and Co. Realty, Agent for the Applicant.

8. Lori Graves, SPF Engineering

9. Alan Mills, Mills and Co. Realty, Agent for the Applicant

DITCH COMPANY EXHBIITS

Exhibit 101: Articles, Bylaws and Resolutions for the Ditch Company (Exhibit 1, pages 1-43 to the Deposition of Tom Johnston).

Exhibit 102: Highlighted Bylaws for the Ditch Company (Exhibit 2, pages 1-9 to the Deposition of Tom Johnston).

Exhibit 103: March 11, 2020 meeting minutes of the Ditch Company (these minutes are also attached to Exhibit 1 as pages 36-38 which are not signed).

Exhibit 104: Correspondence and communication with Apple Valley Estates (Exhibit 4, pages 1-10 to the Deposition of Tom Johnston).

Exhibit 105: Correspondence and communication with Masa Kora (Exhibit 5, pages 1-40 to the Deposition of Tom Johnston).

Exhibit 106: E-mail correspondence with the Ditch Company and Matt Wilke/Title Company concerning the Applicant (Exhibit 6, pages 1-6 to the Deposition of Tom Johnston).

Exhibit 107: Title Commitment for Applicant's Property (OMM 000034-000052)[1].

Exhibit 108: Stock Certificate for Applicant (OMM 000053).

[1] OMM refers to the Bates Stamp or numbering provide by One More Mile for the documents provided in response to the Ditch Company's Discovery Requests.

Exhibit 109: Covenants, Conditions, Restrictions, Reservations, and Easements Recorded December 24, 2007 as Inst. No. 2007082405.

Exhibit 110: Pressure Irrigation Plans (February 2008) prepared by Basic Engineering for Apple Valley Development.

Exhibit 111: Administrative Land Division Decision, Inst. No. 200707756 (OMM 000019-000020).

Exhibit 112: Amended Record of Survey of Plat Split, Inst. No. 2007076627 (OMM 00021)

Exhibit 113: Aerial photograph overlay of Applicant's Property (OMM 00055-00056)

Exhibit 114: Official Notice of Water Right No. 63-34612 (Parma School District No. 137) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.

Exhibit 115: Official Notice of Water Right Nos. 63-34582 thru 63-34594 (DRK, LLC) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.

Exhibit 116: Official Notice of Water Right No. 63-34571 (West Ada School District) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.

Exhibit 117: Official Notice of Water Right No. 63-34800 (Vallivue School District) and IDWR's records concerning said right, including, the Stipulation/Settlement via E-mail correspondence which is identified and will be offered as an Exhibit.

Exhibit 118: Official Notice of Water Right No. 63-34033 (SCS Brighton) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.

Exhibit 119: Transcript of the Deposition of Tom Johnston., dated May 12, 2020.

Exhibit 120: Discovery Responses of One More Mile, LLC submitted on or about April 27, 2020.

Exhibit 121: Photographs of the current condition of Applicant's property.

RESERVATION OF RIGHTS

The Ditch Company hereby reserves the right to supplement this witness/exhibit list and to call any witness or introduce any exhibit identified in discovery in this matter. Further, the Ditch Company also reserve the right to call any witness named by any other party in this matter.

The Ditch Company hereby reserves the right to supplement this exhibit list and to use any document or pleading filed/lodged with the Idaho Department of Water Resources in this matter including but not limited to the Applications filed by the Applicant and the Protest filed by the Ditch Company. Further, the Ditch Company reserves the right to use enlargements of any exhibit for demonstrative purposes and also reserve the right to use any exhibit offered by any other party at the hearing in this matter.

DATED this 1st day of June, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for the Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of June, 2020, I caused a true and correct copy of the foregoing **PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S LIST OF WITNESSES AND LIST OF EXHIBITS** to be served by the method indicated below, and addressed to the following:

Albert P. Barker
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
P (208) 336-0700
F (208) 344-6034
E *apb@idahowaters.com*

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
( ) Email

S. Bryce Farris

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

Attorneys for One More Mile LLC

RECEIVED
JUN 04 2020
DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 05 2020
WATER RESOURCES WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34840 In the name of One More Mile LLC	**NOTICE OF SERVICE OF ONE MORE MILE LLC'S SUPPLEMENTAL RESPONSE TO FARMERS CO-OPERATIVE DITCH COMPANY'S FIRST DISCOVERY REQUESTS**

NOTICE, is hereby provided that One More Mile LLC served its *Supplemental Response to Farmers Co-operative Ditch Company's First Discovery Requests* through its counsel, at the email addresses listed below:

S. Bryce Farris bryce@sawtoothlaw.com
Sawtooth Law
P.O. Box 7985
Boise, ID 83707

DATED this 1st day of June, 2020.

Albert P. Barker
Attorneys for One More Mile LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of June, 2020, I served a true and correct copy of the foregoing *Notice of Service of One More Mile LLC's Supplemental Response to Farmers Co-operative Ditch Company's First Discovery Requests* on the following by the method indicated:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	____ Hand Delivery __x__ U.S. Mail ____ Facsimile ____ Overnight Mail
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery __x__ U.S. Mail ____ Facsimile ____ Overnight Mail ____ Email: bryce@sawtoothlaw.com

Albert P. Barker

EXHIBIT LIST FOR CONSOLIDATED HEARING

CONSOLIDATED HEARING
IN THE MATTER OF APPLICATIONS FOR
PERMIT NO:
63-34832 to 63-34838, and 63-34840 to 63-34846
IN THE NAME OF ONE MORE MILE LLC

Beginning at 9:00 AM
June 15, 2020
Hearing Officer: Nick Miller

Applicants
One More Mile

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	STATUS OF INTRODUCED	EVIDENCE ADMITTED
1	Warranty Deed Bayview Ranch to One More Mile 1/31/2019	introduced. eliminate	✓
2	Orchard Tract	✓	✓
3 (111)	2007 Administrative Decision - Canyon County	✓	✓
4	Application (example) 63-34840		
5	IDWR Processing Memo	2:16 pm ✓	official notice
6	IDWR Amended Moratorium Order	2:16 pm ✓	↓
7	Well Log	2:04 pm ✓ ~~to be offered~~	✓
8	Well map	2:10 pm ✓	✓
9	Lower Boise Ground Water Hydrographs	2:12pm ✓	✓
10 (108)	Share Certificate - One More Mile	✓	✓
11 (106)	Email Correspondence: Matt Wilke - Netty Davis	✓	✓
12	Farmers Co-op Response to Discovery Request		
13 (119)	Farmers Co-op (30)(b)(6) deposition transcript	3:01 pm ✓	✓
14	Map of Farmers Co-op Service Area	105 pm ✓	✓
15	Farmers Co-op Articles of Incorporation		
16	Amended By-laws of Farmers Co-op	10:58 am ✓	✓
17	Minutes of Farmers Co-op Board January 15, 2003, March 12, 2003 and August 13,		

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	STATUS OF INTRODUCED	EVIDENCE ADMITTED
	2003.		
18	Adoption of Resolution by Farmers Co-op, August 13, 2003.		
19	Letter to Farmers Co-op from Bryce Farris September 5, 2003	3:19 ✓	✓
20	Minutes of Board September 11, 2003		
21	Minutes of Board September 15, 2004		
22	Minutes of Board August 16, 2006		
23	Group of correspondence between Farmers Co-op and Flurtz Water Users 2009		
24	Group of correspondence between Farmers Co-op and Hansens 2006	3:16 ✓	✓
25	January 2020 Board Minutes		
26	February 2020 Board Minutes	3:22 ✓	✓
27 (103)	March 2020 Board Minutes	same as 103 which is allowed → "	
28	March 2020 Resolution	3:45 ✓ #3:57	✓
29	Agreement with Watson	✓	✓
30	Idaho Code § 67-6532		

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	STATUS OF INTRODUCED	EVIDENCE ADMITTED
101	Articles, Bylaws and Resolutions for the Ditch Company (Exhibit 1, pages 1-43 to the Deposition of Tom Johnston).		
102	Highlighted Bylaws for the Ditch Company (Exhibit 2, pages 1-9 to the Deposition of Tom Johnston).		
103	March 11, 2020 meeting minutes of the Ditch Company (these minutes are also attached to Exhibit 1 as pages 36-38 which are not signed).	✓	✓
104	Correspondence and communication with Apple Valley Estates (Exhibit 4, pages 1-10 to the Deposition of Tom Johnston).		
105	Correspondence and communication with Masa Kora (Exhibit 5, pages 1-40 to the Deposition of Tom Johnston).	3:37 pm ✓	✓
106	E-mail correspondence with the Ditch Company and Matt Wilke/Title Company concerning the Applicant (Exhibit 6, pages 1-6 to the Deposition of Tom Johnston) .		
107	Title Commitment for Applicant's Property (OMM 000034-000052)	✓	✓
108	Stock Certificate for Applicant (OMM 000053).		
109	Covenants, Conditions, Restrictions, Reservations, and Easements Recorded December 24, 2007 as Inst. No. 2007082405	✓	✓
110	Pressure Irrigation Plans (February 2008) prepared by Basic Engineering for Apple Valley Development.		
111	Administrative Land Division Decision, Inst. No. 200707756 (OMM 000019-000020).		
112	Amended Record of Survey of Plat Split, Inst. No. 2007076627 (OMM 00021)	2:57 pm ✓	✓
113	Aerial photograph overlay of Applicant's Property (OMM 00055-00056)	✓	✓
114	Official Notice of Water Right No. 63-34612 (Parma School District No. 137) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.	3:40 ✓	✓ noted & accepted Dept. Records.

Protestants Farmer's Co-op

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	STATUS OF INTRODUCED	EVIDENCE ADMITTED
115	Official Notice of Water Right Nos. 63-34582 thru 63-34594 (DRK., LLC) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit	object relevance by Att. Barker. ✓	✓
116	Official Notice of Water Right No. 63-34571 (West Ada School District) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.		
117	Official Notice ofWater Right No. 63-34800 (Vallivue School District) and IDWR's records concerning said right, including, the Stipulation/Settlement via E-mail correspondence which is identified and will be offered as an Exhibit.		
118	Official Notice of Water Right No. 63-34033 (SCS Brighton) and IDWR's records concerning said right, including, the Stipulation which is identified and will be offered as an Exhibit.		
119	Transcript of the Deposition of Tom Johnston., dated May 12, 2020.		
120	Discovery Responses of One More Mile, LLC submitted on or about April 27, 2020.		
121	Photographs of the current condition of Applicant's property.	✓	✓

already a dept. record.

Page 4 of 6

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	STATUS OF INTRODUCED	EVIDENCE ADMITTED
IDWR 1-28	Applications & Protests	introduced/ admitted.	
1	63-34840		
2	63-34841		
3	63-34842		
4	63-34843		
5	63-34844		
6	63-34845		
7	63-34846		
8	63-34832		
9	63-34833		
10	63-34834		
11	63-34835		
12	63-34836		
13	63-34837		
14	63-34838		
15	other past departmental records.		

NOTES:

CONSOLIDATED HEARING
Applications for Permit:
63-34832 to 63-34838, 63-34840 to 63-34846
Date: June 15, 2020
Hearing Officer: Nick Miller

NAME	**PHONE NUMBER** ADDRESS, CITY, ZIP	EMAIL ADDRESS	REPRESENTING
Bryce Farris		bryce@sawtoothlaw.com	Farmers Co-Op
Rod Nielsen	208-724-7002 30364 Pearl Rd, Parma ID 83660	rbwatermelon@gmail.com	Farmers Co-Op
Tom Johnston	208-250-5491 22410 Ten Davis Rd Parma ID 83660	farmertom3@gmail.com	Farmers Co-op
Sharla Froerer	541 212 0623 Nyssa OR 3255 Kesler 97913	sharla@froererfarms.com	One More Mile
Craig Froerer	669 Columbia Ave Nyssa OR 97913	Craig@Froererfarms.com	One more Mile
Colleen Froerer	Nyssa Or 97913	colleenfroerer@gmail	one mor Mile

If you are the applicant or the protestant, you can sign in and add your phone number. If you are not the protestant or the applicant, please fill in all the address information. PLEASE MAKE SURE TO ALWAYS PUT YOUR PHONE NUMBER AND EMAIL, IF POSSIBLE. Thank you, IDWR.

CONSOLIDATED HEARING
Applications for Permit:
63-34832 to 63-34838, 63-34840 to 63-34846
Date: June 15, 2020
Hearing Officer: Nick Miller

NAME	**PHONE NUMBER** ADDRESS, CITY, ZIP	EMAIL ADDRESS	REPRESENTING
ALAN MILLS	BOX 206 MIDDLETON, ID. 83644	millscoverality@msn.com	FROEHLER
Albert P Barker	208-336-0700 1010 W. Jefferson, Suite 102, Boise 83702	apb@idahowaters.com	One More Mile
Nick Miller	IDWR		
Angie Grimm	IDWR		
Kenzie Thorneycroft	IDWR		
Jean Hersley	IDWR		

If you are the applicant or the protestant, you can sign in and add your phone number. If you are not the protestant or the applicant, please fill in all the address information. PLEASE MAKE SURE TO ALWAYS PUT YOUR PHONE NUMBER AND EMAIL, IF POSSIBLE. Thank you, IDWR.

CONSOLIDATED HEARING
Applications for Permit:
63-34832 to 63-34838, 63-34840 to 63-34846
Date: June 15, 2020
Hearing Officer: Nick Miller

NAME	**PHONE NUMBER** ADDRESS, CITY, ZIP	EMAIL ADDRESS	REPRESENTING
MATT WICKE	208 412 9803 8982 REFLECTION LN. MIDDLETON, ID 83644	MATT@MHWHITEBARN.COM	ONE MORE MICE LLC
ANGIE GRIMM	(208) 287-4800 IDWR STATE OFFICE	~~angel~~ angie.grimm@idwr.idaho.gov.	OBSERVING - IDWR

If you are the applicant or the protestant, you can sign in and add your phone number. If you are not the protestant or the applicant, please fill in all the address information. PLEASE MAKE SURE TO ALWAYS PUT YOUR PHONE NUMBER AND EMAIL, IF POSSIBLE. Thank you, IDWR.

TESTIMONY LOG

CONSOLIDATED HEARING
IN THE MATTER OF APPLICATIONS FOR
PERMIT NO:
63-34832 to 63-34838, and 63-34840 to 63-34846
IN THE NAME OF ONE MORE MILE LLC

Beginning at 9:00 AM
June 15, 2020
Hearing Officer: Nick Miller

DIGITAL INFORMATION:

DIGITAL TRACK No.	DIGITAL LOCATION HRS-MIN-SEC	TESTIMONY DESCRIPTION
2	00.00	start hearing 9:25 am
3		Mr Barker call Craig Froerer as witness
|	32:15	Farris objects to opinion of impact of subdivision - allowed
|	33:26	opinion of how it would affect Farms Co-op
4		Mr. Farris questions Mr Froerer
|	15:39	objection by Mr. Barker
|	23:20	Back on record - discus farmers Articles
|	38:48	object to questioning about being bound by resolutions of board - noted
|	40:45	objection - noted
|	43:34	done questioning
5		Mr Barker re-directs Mr Froerer
	11:16	no additional questions by Mr. Farris
6		Mr. Barker calls Alan Mills

DIGITAL TRACK No.	DIGITAL LOCATION HRS-MIN-SEC	TESTIMONY DESCRIPTION
6	0:00:00	Nick interjected
	0:07:48	Objection about requirements needed to
		continue w/ development - re-phrase
	11:37	Objection on well logs - conclusion
		noted
	13:32	objection on discussions on wells
		noted
	19:13	object to opinion on benefit to County
		re-phrase
7		Mr Farris questions Mr. Mills
	2:55	objection - about change to plat - asked
		3 times move on
	11:45	objection of Exhibit 115 - already record
		of Dept.
8		Mr. Barker re-directs Mr. Mills
	00:03:34	Mr. Farris asks additional questions
	00:06:30	no further questions -
		Lunch
9	00-00-00	Mr. Barker calls Matt Wilke as witness
↓	5:45	exhibit M records of survey

DIGITAL TRACK No.	DIGITAL LOCATION HRS-MIN-SEC	TESTIMONY DESCRIPTION
9	13:50	Exhibit 11 email btw Mr. Wilke & Ms. Davis
↓	21:50	Exhibit 103 March 11, 2020 board meeting Notes.
10	0:00	Mr. Farris re-examine.
		exhibit 112 survey of land.
	4:33	Exhibit 11 → Mr. Wilke & Ms. Davis email
	6:12	Exhibit 103 March 11 board meeting
	12:19	Exhibit 109 20070824O5 CCNR's
		page 5 Article 4 Irrigation System
11	0:00	Lori Graves called by Mr. Barker
	2:45	Lori sworn in after video set up.
	9:39	Exhibit 7 Well log for proposed well
	14:03	Exhibit 8 well map → wells in the area
		(around ½ mile around)
	15:59	Exhibit 9 hydrographs. showing Dept monitoring
		wells to check water level
	18:46	moratoriums of basin (snake river basin) Boise river
	21:07	Exhibit 6 IDWR amended moratorium
		Exhibit 5 Administrative memo
12	0:00	Mr. Farris re-examines starting w/ Exhibit 4 2 63-34840
1	4:40	Objection cause for speculation by Mr. Baker

DIGITAL TRACK No.	DIGITAL LOCATION HRS-MIN-SEC	TESTIMONY DESCRIPTION
12	5:53	Exhibit 4 (63-34840 example app.)
	7:29	Exhibit 11 Mr Wilke & Ms Davis email.
	10:00	Objection non-responsive to ? (objection by Mr. Farris)
	10:21	Objection "asked & answered" Mr. Baker
	11:25	Objection "calls for legal knowledge" Mr. Baker
	11:35	Nick Lori not expert witness
	12:10	Exhibit 116 Notice of WR 63-34571
	15:24	Objection "cause for stipulation" Mr. Baker
		Nick noted
	15:45	Object "relevance" Mr Baker noted by NM
	16:00	Exhibit 117 63-34800 app. example - email chain.
	21:23	Mr. Barker cross examine.
	26:26	Mr. Farris re-examine.
	28:20	nothing further.
13	0:54	Mr. Barker calls Tom Johnston.
	4:27	Exhibit 14 Co-op sve area
	5:40	Exhibit 10 share certificate
	7:30	Exhibit 16 bylaws of Farmer's Co-op.
	16:55	Exhibit 24 Group correspondence btw Co-Op
		& Flurtz Water users.

DIGITAL TRACK No.	DIGITAL LOCATION HRS-MIN-SEC	TESTIMONY DESCRIPTION
13	21:36	Exhibit 19 Letters to Co-op from Bryce Farris.
	24:22	Exhibit 26 Feb 2020 Board meeting.
	30:10	Exhibit 27/103 March 2020 Board meeting.
14	0:00	Mr. Farris examination of Mr. Johnston.
		Exhibit 16 Amended By-Laws.
	2:57	Exhibit 24 Letter Btw Co-Op & Hanson.
	4:49	Exhibit 105 → Correspondence & comm w/Kara
	7:33	Exhibit 114 Parma School Dist 63-34612
	12:42	Exhibit 28 March 2020 Resolution.
	18:50	Exhibit 29 Agreement w/Watson
	19:37	Exhibit 11 Mr. Wilke & Ms. Davis email
	22:56	Mr. Farris no further ?'s. Mr. Barker exhibit 11
	24:46	Exhibit 28 2020 Resolution
	35:50	No further ?'s mr. Barker
	36:00	Mr Farris re-examine.
	37:56	Exhibit 16 By-Laws.
	43:00	Mr Farris no more
	43:14	Mr. Barker follow-up.
	45:58	No further
	46:06	NM follow-up.

DIGITAL TRACK No.	DIGITAL LOCATION HRS-MIN-SEC	TESTIMONY DESCRIPTION
14	53:41	NM no further ?'s.
15	0:00	Mr. Farris calls Rod Nielson.
|		discussions on more clarification on Mr Johnstons
|		testimony.
16	0:00	Mr. Barker examining Mr. Neilson
	5:10	No. further ?'s Mr. Baker.
		Mr. Farris ~~cross~~ examine again/clarify.
	5:50	objection speculation by. Mr. Baker
	6:49	OBJECTION BY MR. BARKER
	8:00	Exhibit 29
	8:51	BRYCE ENDS - AL LAST QUESTIONS
	9:25	NICK MILLER ?'s
	12:59	ROD EXCUSED
	13:35	GO THROUGH EXHIBITS
	16:16	Objectin relevance Exhibit 117
	029:22:18	RECORD CLOSED

Rev. 05/12

RECEIVED
JUL 28 2020
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR PERMIT

To change the ownership of an application for permit

I, ONE MORE MILE LLC, hereby assign to Eden's Gate LLC
Current applicant — New applicant(s)

of, 3150 Echo Rd., Nyssa, OR 97913-5022 — (541) 212-1204
New owner's address including city, state and ZIP — Phone

All my right, title, and interest in and to Application for Permit No(s).: 63-34832 thru 63-34838 and 63-34840 thru 63-34846 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s).:

_____, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

Does the new applicant own the property at the:

Point of diversion? ☑ Yes ☐ No
Place of use? ☑ Yes ☐ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

Dated this _____ day of _____, 20____.

Craig Fraser — Owner — OWNER
Signature of current applicant — Title (if applicable) — Signature of current applicant — Title (if applicable)

State of Idaho)
)ss
County of Canyon)

On this 22 day of July, 2020, [illegible] before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

APRIL WILKE
COMM NO. 56797
NOTARY PUBLIC
Commission Expires Sept 22, 2022
STATE OF IDAHO

SEAL

Notary Public
My commission expires: Sept 22, 2022

2020-040328
RECORDED
07/22/2020 04:18 PM

PioneerTitleCo.
GOING BEYOND
5680 E. Franklin Rd., Ste. 150
Nampa, ID 83687

00534135202000403280100109

CHRIS YAMAMOTO
CANYON COUNTY RECORDER
Pgs=10 LBERG $15.00
DEED
MATT WILKE

QUITCLAIM DEED

For Value Received

One More Mile, LLC, an Idaho limited liability company

does hereby convey, release, remise and forever quit claim unto

Eden's Gate, LLC, an Idaho limited liability company

whose address is 34325 Apple Valley Road, Parma, ID 83660

the following described premises, to-wit:

See Exhibit A attached hereto and made a part hereof.

SUBJECT TO any and all ditches, canals, rights of ways and easements, whether implied or of record held by One More Mile LLC and all other encumbrances of record.

TO HAVE AND TO HOLD the said premises, with appurtenances, except that this property is transferred without any surface water rights to water delivered by Farmers Co-op Ditch Company and without any shares in Farmers Co-op Ditch Company, unto said Grantee and its heirs and assigns forever.

together with their appurtenances.

Dated: 7-22-2020

One More Mile, LLC

By: Sharla Froerer, Manager

State of IDAHO, County of CANYON

This record was acknowledged before me on July 22, 2020 by Sharla Froerer, as Manager of One More Mile, LLC.

Signature of notary public
Commission Expires:

APRIL WILKE
COMM NO. 58787
NOTARY PUBLIC
Commission Expires Sept. 22, 2022
STATE OF IDAHO

EXHIBIT "A"

COMPRISING 9 PAGES

Parcel 2:

The following describes a parcel of real property lying within a portion of Block 1 of Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Instrument Number 33653, Canyon County records and also located in the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the East boundary line of said SE ¼ NE ¼, South 00°15'40" East, 1325.84 feet; thence, South 89°44'20" West, 25.00 feet to the West right of way line of Apple Valley Road; thence, along said right of way line, South 0°15'40" East, 307.26 feet; thence, departing said right of way line, South 89°44'20" West, 15.00 feet; thence, South 0°15'40" East, 67.00 feet to the POINT OF BEGINNING;

Thence, South 00°15'40" East, 52.95 feet;
Thence, South 89°44'20" West, 253.82 feet;
Thence, 59.82 feet along a curve to the left, said curve having a radius of 85.00 feet, having a delta angle of 40°19'12", a long chord which bears, South 69°34'43" West, 58.59 feet;
Thence, North 00°15'40" West, 73.14 feet;
Thence, North 89°44'20" East, 308.82 feet to the POINT OF BEGINNING.

Parcel 3:

The following describes a parcel of real property lying within a portion of Block 1 of Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Instrument Number 33653, Canyon County records and also located in the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the East boundary line of said SE ¼ NE ¼, South 00°15'40" East, 1325.84 feet; thence, South 89°44'20" West, 25.00 feet to the West right of way line of Apple Valley Road; thence, along said right of way line, South 0°15'40" East, 487.21 feet to the POINT OF BEGINNING;

Thence, continuing along said right of way line, South 00°15'40" East, 52.85 feet;
Thence, departing said right of way, South 89°47'00" West, 289.00 feet;
Thence, South 00°15'40" East, 108.60 feet;
Thence, South 89°38'04" West, 4.82 feet;
Thence, North 00°15'40" West, 136.23 feet;
Thence, 39.27 feet along a curve to the right, said curve having a radius of 25.00 feet, a delta angle of 90°00'00", a long chord which bears, North 44°44'20" East, 35.39 feet;
Thence, North 89°44'20" East, 268.82 feet to the POINT OF BEGINNING.

PARCEL 4:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2,

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 2 from which the Southwest corner thereof bears South 00°15'40" East 15.00 feet; thence along said West line
North 00°15'40" West 285.87 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 2; thence along said East line
South 00°15'40" East a distance of 97.70 feet to a ½ inch iron rod and a point of cusp; thence leaving said East line and
Along the arc of a 85.00 foot radius curve to the left 73.70 feet through a central angle of 49°40'47" and whose long chord bears South 24°34'44" West 71.41 feet to a point of tangency; thence
South 00°15'40" East 101.38 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.38 feet through a central angle of 89°53'45" and whose long chord bears South 44°41'12" West 28.26 feet to a point of tangency; thence along a line 15.00 feet distant and to the North of the South line of said Lot 2, when measured perpendicular thereto
South 89°38'05" West 273.86 feet to the POINT OF BEGINNING.

PARCEL 5:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 2; thence along the North line of said Lot 2
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 2; thence leaving said North line and along the East line of said Lot 2
South 00°15'40" East 349.70 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West a distance of 323.82 feet to a ½ inch iron rod on the West line of said Lot 2; thence along said West line
North 00°15'40" West 348.22 feet to the POINT OF BEGINNING.

PARCEL 6:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3,

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 3 from which the Southeast corner of said Lot 3 bears South 00°15'40" Fast 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 3 when measured perpendicular thereto
South 89°38'04" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 3; thence along said West line
North 00°15'40" West 270.10 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 3; thence along said East line
South 00°15'40" East 268.037 feet to the POINT OF BEGINNING.

PARCEL 7:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 3; thence along the North line of said Lot 3
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 3; thence leaving said North line and along the East line of said Lot 3
South 00°15'40" East 366.05 feet to a ½ inch iron rod; thence
North 90°00'00" West 323.82 feet to a ½ inch iron rod; thence
North 00°15'40" West 364.58 feet to POINT OF BEGINNING.

PARCEL 8:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 4 from which the Southeast corner of said Lot 4 bears South 00°15'40" East 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 4 when measured perpendicular thereto

South 89°38'04" West 323.81 to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 272.17 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 4; thence
South 00°15'40" East a distance of 270.10 feet to the POINT OF BEGINNING.

PARCEL 9:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 4; thence along the North line of said Lot 4
North 89°44'20" East 323.81 feet to a ½ inch iron rod at the Northeast corner of said Lot 4; thence leaving said North line and along the East line of said Lot 4
South 00°15'40" East 364.58 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 363.10 feet to the POINT OF BEGINNING.

PARCEL 10:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 5, BLOCK I, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 5 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 5 when measured perpendicular thereto
North 89°38'04" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 5; thence along said East line
South 00°15'40" East 270.11 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 5; thence along said West line
North 00°15'40" West 268.04 feet to the POINT OF BEGINNING.

PARCEL 11:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 5, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 5 from which an aluminum cap monument marking the Southeast corner of said Southeast Quarter bears North 89°31'47" East 1320.27 feet; thence along the West line of said Lot 5
North 00°15'40" West 367.22 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod to the East line of said Lot 5; thence along said East line
South 00°15'40" East a distance of 364.57 feet to a ½ inch iron rod on the South line of said Lot 5; thence along said South line
South 89°31'49" West 323.81 feet to the POINT OF BEGINNING.

PARCEL 12:

LEGAL DESCRIPTION OF PARCEL A OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 6 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 6 when measured perpendicular thereto
North 89°38' 04" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East 272.18 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 6; thence along said West line
North 00°15'40" West a distance of 270.11 feet to the POINT OF BEGINNING.

PARCEL 13:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod marking the Southwest corner of said Lot 6 from which an aluminum cap monument marking the Southeast corner of the aforementioned Southeast Quarter bears North 89°31'47" East 996.46 feet; thence along the West line of said Lot 6
North 00°15'40" West 364.57 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East a distance of 361.91 feet to a ½ inch iron rod on the South line of said Lot 6; thence along said South line
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 14:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 7, BLOCK 1, ORCHARD TRACTS OF THE ORECON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 7 from which the Northwest corner thereof bears North 00°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 7 when measured perpendicular thereto
North 89°38'04" East 273.84 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.45 feet through a central angle of 269°53'27" and having a long chord of 28.31 feet bearing South 45°18'39" East to a point of tangency; thence
South 00°15'22" East 277.74 feet to a ½ inch iron rod; thence
North 90°00'00" West 293.79 feet to a ½ inch iron rod on said West line of Lot 7; thence along said West line
North 00°15'40" West 295.90 feet to the POINT OF BEGINNING.

PARCEL 15:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 7, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

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A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 7 from which an aluminum cap monument marking the Southeast corner of said Southeast bears North 89°31'47" East 672.64 feet; thence along the West line of said Lot 7

North 00°15'40" West 338.18 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 293.79 feet to a ½ inch iron rod; thence
South 00°15'22" East a distance of 13.79 feet to a ½ inch iron rod and a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.45 feet through a central angle of 315°45'13" and whose long chord bears South 21°52'03" West 15.06 feet to a point of reverse curvature; thence
Along the arc of a 50.00 foot radius curve to the left 117.36 feet through a central angle of 225°31'04" and whose long chord bears South 23°00'54" East 92.21 feet to a ½ inch iron rod on the East line of said Lot 7; thence along said East line
South 00°15'40" East 222.88 feet to a ½ inch iron rod at the Southeast corner of said Lot 7; thence along the South line of said Lot 7
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 16:

LEGAL DESCRIPTION OF PARCEL A OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 8 from which the Northeast corner of said Lot 8 bears North 00°15'40" West 102.15 feet; thence along said East line
South 00°15'40" East 269.68 feet to a ½ inch iron rod; thence leaving said East line
South 89°31'49" West 273.97 feet to a point of cusp; thence
Along the arc of a 50.00 foot radius curve to the left 35.37 feet through a central angle of 40°32'03" whose long chord bears North 24°24'16" West 34.64 feet to a point of reverse curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.50 feet through a central angle of 44°24'55" whose long chord bears North 22°27'50" West 15.11 feet to a point of tangency; thence
North 00°15'22" West 326.69 feet to a ½ inch iron rod; thence
North 89°38'04" East 4.82 feet to a ½ inch iron rod; thence
South 00°15'40" East 101.40 feet to a ½ inch iron rod; thence
North 89°47'00" East a distance of 289.00 feet to the POINT OF BEGINNING.

PARCEL 17:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southeast corner of said Lot 8 from which an aluminum cap monument marking the Southeast corner of the Southeast Quarter bears North 89°31'47" East 25.00 feet; thence along the South line of said Lot 8
South 89°31'49" West 323.82 feet to a ½ inch iron rod at the Southwest corner of said Lot 8; thence leaving said South line and along the West line of said Lot 8
North 00°15'40" West 222.88 feet to a point of cusp; thence leaving said West line
Along the arc of a 50.00 foot radius curve to the left 81.93 feet through an angle of 93°52'52" and whose long chord bears North 42°46'53" East 73.039 feet to a point of intersection with a non-tangential line; thence
North 89°31'49" East 273.97 feet to a ½ inch iron rod on the East line of said Lot 8; thence along said East line
South 00°15'40" East a distance of 276.08 feet to the POINT OF BEGINNING.

Pg 9

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

Attorneys for One More Mile LLC

RECEIVED
JUL 28 2020
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF ONE MORE MILE LLC	**DECLARATION OF MADISON RICHARDS**

I, Madison Richards, an original governor of Eden's Gate LLC.

I declare that Eden's Gate is owner of 14 lots in Canyon County, Idaho that were deeded to Eden's Gate LLC by One More Mile, LLC. This land was deeded without water rights and without shares in Farmers Co-operative Ditch Company. One More Mile LLC assigned the 14 water right applications for these lots to Eden's Gate. These lots are listed for sale.

Eden's Gate intends to sell the lots with the respective water right permits and will include the permits with the lots. Eden's Gate will not hold the assigned applications for speculative purposes.

I declare under penalty of perjury pursuant to the laws of the State of Idaho that the foregoing is true and correct.

Dated this 28th day of July, 2020.

Madison Richards

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July, 2020, I served a true and correct copy of the foregoing *Declaration of Madison Richards* on the following by the method indicated:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	_x_ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail _x_ Email: bryce@sawtoothlaw.com



Albert P. Barker

Albert P. Barker, ISB No. 2867
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com

Attorneys for One More Mile LLC

RECEIVED
JUL 28 2020
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF ONE MORE MILE LLC	**NOTICE OF ASSIGNMENT OF APPLICATION**

One More Mile, LLC hereby gives Notice to the Department of Water Resources and to Protestant Farmers Co-operative Ditch Company that One More Mile LLC has deeded the property at issue in these consolidated proceedings to Eden's Gate LLC, without water rights and without any shares in Farmer's Co-operative Ditch Company. One More Mile LLC has retained all right, title and interest in the water shares of Farmers Co-operative Ditch Company. One More Mile LLC has also assigned all right, title and interest in the pending water right applications to Eden's Gate LLC.

Eden's Gate LLC gives notice that it desires that the Department of Water Resources process the applications. Eden's Gate does not own any shares in Farmers Co-operative Ditch Company. It intends to sell the lots with the water right permits, and that it is not taking assignment of the applications for speculative purposes.

As established and admitted at the hearing by Farmers Co-operative Ditch Company, Farmers Co-operative Ditch Company's water rights are not appurtenant to this land. Eden's Gate LLC is not subject to Farmers Co-operative Ditch Company's Articles, Bylaws or Resolutions, as it is not a shareholder. Farmers Co-operative Ditch Company can not prevent the sale of property without water shares, as the hearing testimony further established.

Eden's Gate LLC requests approval of the 14 permits in its name, as the assignee of the permits. Idaho Code § 67-6537 does not apply to this application as the applicant is not proposing any land use changes, withing the meaning of the Land Use Planning Act.

DATED this 28th day of July, 2020.



Albert P. Barker
Attorneys for One More Mile LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July, 2020, I served a true and correct copy of the foregoing *Notice of Assignment of Application* on the following by the method indicated:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	_x_ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail _x_ Email: bryce@sawtoothlaw.com

Albert P. Barker

RECEIVED
JUL 28 2020
WATER RESOURCES
WESTERN REGION

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707-7985
P (208) 629-7447
F (208) 629-7559
E *bryce@sawtoothlaw.com*

COPY

Attorneys for Farmers Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NOS.: 63-34840 to 63-34846 63-34832 to 63-34838 IN THE NAME OF ONE MORE MILE LLC	**PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S RESPONSE TO NOTICE OF ASSIGNMENT OF APPLICATIONS**

COMES NOW Protestant, Farmers Co-Operative Ditch Company (hereinafter referred to as "Ditch Company"), and hereby responds to the *Notice of Assignment of Applications* recently filed by the Applicant, One More Mile LLC.

On July 28, 2020, Applicant, One More Mile LLC submitted a *Notice of Assignment of Application* providing "notice" that One More Mile LLC has deeded the property at issue to Eden's Gate LLC and assigned all right, title and interest in the pending water right applications to Eden's Gate LLC. The submission by One More Mile LLC was more than simply "notice" that the pending applications were assigned to Eden's Gate LLC as the submission also included argument as to testimony at the hearing for these applications, argument as to the applicability of Idaho Code section 67-6537, and argument as to whether the pending permits should be approved without the conditions requested by the Ditch Company. As a result of these

additional arguments, the Ditch Company hereby responds to the "notice" by One More Mile LLC.

In an obvious attempt to elevate form over substance, to circumvent the Articles, Bylaws and Resolutions of the Ditch Company, and avoid use of existing surface water rights, One More Mile LLC has deeded the property at issue without attempting to transfer any shares to the "new" owner. In other words, One More Mile LLC is attempting to manufacture an after-the-fact situation in which the applicant is no longer a shareholder of the Ditch Company and thus should not be required to utilize existing surface water rights. This disingenuous maneuver should be rejected because the surface water remains reasonably available and the Ditch Company's distribution system remains capable of delivering surface water to the land. Indeed, One More Mile LLC's maneuver is occurring at the same time it is using the Ditch Company's water on the property at issue for irrigation purposes. The testimony at the hearing was clear that the property at issue is capable of receiving irrigation water from the Ditch Company and the property is in fact currently using the water of the Ditch Company for the 2020 irrigation season.

One More Mile LLC's argument that Idaho Code section 67-6537 is not applicable is misplaced. Whether or not the applicant is proposing a "land use change" within the meaning of the Land Use Planning Act does not change the policy of this State which is to "encourage the use of surface water for irrigation."[1] It is this policy which the Department has followed,

[1] One More Mile LLC has throughout these proceedings misunderstood the Ditch Company's reliance on Idaho Code section 67-6537. To be clear, the Ditch Company's position is that One More Mile LLC is proposing to make a land use change from irrigated agriculture to 14 new residential homes on the property at issue. However, whether or not this amounts to a "land use change" under the Land Use Planning Act or not does not change the policy set forth to encourage the use of surface water. The "policy" remains relevant regardless of whether the changed use by One More Mile LLC is a "land use change" under the Land Use Planning Act and the Department has implemented said policy by requiring the primary surface water to be used regardless of whether the new ground water application involves a

regardless of whether a "land use change" is being proposed in order to condition new ground water application by requiring the continued use of existing surface water rights. It is consistent with this policy that if a new application for ground water falls within an irrigation district or canal company that the Department conditions the new application to utilize the existing surface water, whether apportioned benefits in an irrigation district or a shareholder of a ditch company, to "encourage the use of surface water for irrigation."

One More Mile LLC would like to suggest that because the shares of the Ditch Company may not be appurtenant to the land that these policies are not applicable. However, a close reading of Idaho Code section 67-6537 reveals that there is no requirement that the water be appurtenant to the land but rather that the surface water is "reasonably available" or "can be made" appurtenant to the land. The statute goes on to provide that surface water is "reasonably available" if:

a) A surface water right is, or **reasonably can be made**, appurtenant to the land;

b) The **land is entitled to distribution of surface water** from an irrigation district, **canal company**, ditch users association, or other irrigation delivery entity, **and the entity's distribution system is capable of delivering the water to the land**; **or**

c) An irrigation district, **canal company**, or other irrigation delivery entity **has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land**.

Any of the above three situations may be applicable based upon the use of the word "or." In this case, all three of the examples provided by the statute are applicable and the intent and

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land use change or not. In other words, the Departments conditioning of new ground water rights is not based solely upon the application of Idaho Code section 67-6537.

policy of the statute should by followed regardless of whether One More Mile LLC is proposing "land use changes" within the meaning of the Land Use Planning Act. A surface water right, i.e. the Ditch Company shares, is or can reasonably be made appurtenant to the land, the land is entitled to receive surface water and the Ditch Company's system is capable of delivering surface water to the land (indeed, it is receiving water currently). Moreover, even if the owner of the land is no longer a shareholder based upon One More Mile LLC's recent attempt to circumvent the situation, the Ditch Company "has sufficient available surface water rights" to allocate to the land and has a distribution system capable of delivering water to the land. In other words, Eden's Gate LLC cannot simply avoid implementation of the primary surface water right condition when there is sufficient available surface water from the Ditch Company and the Ditch Company's system is capable of delivering water to the land.

The Department should not allow an applicant to circumvent these policies at the applicant's own hand or own doing. What's next, One More Mile LLC will intentionally destroy the distribution system capable of delivering surface water to the land? Interestingly, such a maneuver has been addressed in the context of the exclusion from an irrigation district. While this matter does not involve an irrigation district, this maneuvering is analogous to a landowner's attempt to exclude from an irrigation district by purposefully or intentionally rendering the delivery system incapable of delivering water, and which has been rejected by Idaho statute. *See* Idaho Code section 43-1102(4) (providing grounds for exclusion may not include the rendering of a delivery system incapable by the petitioner's "knowledge or consent"). In other words, a landowner may not manipulate and destroy a delivery system by one's own hand or consent and then use that as a basis for exclusion. Similarly, an existing shareholder, entitled to receive water through a system capable of delivering water to the land should not be

allowed to circumvent and manipulate the ownership of the land, or take other intentional actions, simply to avoid the sound policies of the Department to encourage the continued use of surface water.

The facts remain the same that the lands, whether owned by One More Mile LLC or Eden's Gate LLC, are entitled to the use of an existing surface water right, the land is entitled to distribution of surface water from the Ditch Company, and the Ditch Company's distribution system is capable of delivering water to the land. The Department should reject the applicant's attempt to circumvent these facts by now transferring the land and applications to another entity simply to avoid the use of "reasonably available" surface water. This type of manipulation should not be encouraged by the Department but rather should be rejected in order to prevent further manipulation by these applicants and future applicants.

DATED this 28th day of July, 2020.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for the Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July, 2020, I caused a true and correct copy of the foregoing **PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S RESPONSE TO NOTICE OF ASSIGNMENT OF APPLICATINS** to be served by the method indicated below, and addressed to the following:

Albert P. Barker
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P.O. Box 2139
Boise, ID 83701-2139
P (208) 336-0700
F (208) 344-6034
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(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile
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S. Bryce Farris

RECEIVED
JUL 29 2020
WATER RESOURCES
WESTERN REGION

ORIGINAL

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Attorneys for One More Mile LLC

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF ONE MORE MILE LLC	**ONE MORE MILE LLC'S RESPONSE TO FARMER'S CO-OP'S OBJECTION TO NOTICE OF ASSIGNMENT OF APPLICATION FOR PERMIT**

COMES NOW, One More Mile LLC, by and through its counsel of record, Barker Rosholt & Simpson LLP, and hereby files this response to Farmer's Co-operative Ditch Company's ("Farmer's Co-op") Objection to Notice of Assignment of Application for Permit.

In objection to the Notice of Assignment of the Application for Permit, Farmer's Co-op launches into a lengthy post-trial brief, which it indicated at the hearing it had no intention of filing. One More Mile's Notice of Assignment described three undisputed facts that were established at the hearing. Farmer's Co-op does not dispute any of those facts as they apply to the 28 acres of property transferred by One More Mile to Eden's Gate. First, Farmer's Co-op's water rights are not appurtenant to the 28 acres of land transferred by One More Mile to Eden's Gate. Second, the water shares were not transferred by One More Mile to Eden's Gate. As a result, Eden's Gate is not a shareholder subject to the Resolutions, By-laws, or Articles of Farmer's Co-op. Third, there is no change in land use as contemplated by the Land Use Planning

Act and as referred to in Idaho Code § 67-6537. One More Mile provided only those facts, not legal arguments.

In its objection, Farmer's Co-op argues that there is something nefarious about following Farmer's Co-op rules and transferring the land without the Farmer's Co-op's water shares. The testimony at the hearing and the evidence from Farmer's Co-op's own organizational documents makes it clear that action is perfectly legitimate and common. Farmer's Co-op then argues that, even though Idaho Code § 67-6537 does not directly apply in these circumstances, because there was no change in land use under the Land Use Planning Act, nevertheless, that the Department should apply the "policy" behind Idaho Code § 67-6537 to circumstances that are not covered by the statute. According to Farmer's Co-op, this "policy" is embedded in Idaho Code § 67-6537 and should be applied broadly to all appropriations, even those that are not covered by the statute. In so doing, Farmer's Co-op is asking the Department to silently amend the statute to apply in circumstances where the legislature chose not to apply the requirements of the statute. However, the legislature has spoken. If the legislature had wanted the statute to be as broad as Farmer's Co-op contends, it could easily have written it more broadly.

Farmer's Co-op then refers to a section of Title 43, applicable to irrigation districts. Idaho Code § 43-1102(4). That section limits the ability of a landowner within an irrigation district to exclude from the irrigation district if the landowner creates a situation where water is not deliverable to the landowner by the irrigation district. This code section is in Title 43, applicable to irrigation districts. Farmer's Co-op, no matter how much it would like to be, is not an irrigation district. This section and Title 43 do not apply to Farmer's Co-op or its shareholders. In Title 43 the legislature created a statutory mechanism for inclusions and exclusions from irrigation districts and set-out a statutory procedure for such exclusions. There is no similar

statutory procedure or provisions for exclusion from Farmer's Co-op. It is not an irrigation district and the provision cited by Farmer's Co-op does not apply to Farmer's Co-op or its shareholders. Farmer's Co-op was created so that its water rights are not appurtenant to the individual land and so that property could be transferred without company shares and without any involvement by Farmer's Co-op should the landowner choose to do so. If Farmer's Co-op wants the inclusion and exclusion provisions of the Idaho Code to apply to transfers within the Farmer's Co-op service area, it needs to form itself as an irrigation district, rather than ask the Department to apply irrigation district statutes to Farmer's Co-op and its shareholders.

Farmer's Co-op has a service area of over 15,000 acres and water rights for about 10,000 acres. Farmer's Co-op internal rules apply only to its shareholders and cannot be extended to non-shareholders as Farmer's Co-op is attempting to do in its objection. Accordingly, the Department should approve the assignments of the applications for permit to Eden's Gate LLC and approve the applications.

DATED this 29th day of July, 2020.

Albert P. Barker
Attorneys for One More Mile LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of July, 2020, I served a true and correct copy of the foregoing **ONE MORE MILE LLC'S RESPONSE TO FARMER'S CO-OP'S OBJECTION TO NOTICE OF ASSIGNMENT OF APPLICATION FOR PERMIT** on the following by the method indicated:

Idaho Department of Water Resources Western Region 2735 W. Airport Boise, Idaho 83705-5082	_x_ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail
S. Bryce Farris Sawtooth Law Offices, PLLC P.O. Box 7985 Boise, ID 83707-7985	____ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail _x_ Email: bryce@sawtoothlaw.com



Albert P. Barker

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region • 2735 W Airport Way • Boise ID 83705-5082
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BRAD LITTLE
Governor

GARY SPACKMAN
Director

May 28, 2021

EDEN'S GATE LLC
3150 ECHO RD
NYSSA OR 97913-5022

RE: In The Matter of Applications for Permit No. 63-34832 through 63-34838 and 63-34840 through 63-34846, all in the name Of Eden's Gate LLC

Dear Permit Holder:

The accompanying order is a **"preliminary order"** issued by the department pursuant to Rule 730 of the department's Rules of Procedure (IDAPA 37.01.01). It can and will become a final order without further action of the department unless any party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-287-4947.

Sincerely,

Nick Miller
Manager, IDWR Western Region

Enclosure(s)

SCANNED
JUN 24 2021

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT No. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**PRELIMINARY ORDER PARTIALLY APPROVING APPLICATIONS**

PROCEDURAL HISTORY

On January 2, 2020, One More Mile, LLC ("OMM") filed *Applications for Permit to Appropriate Water No. 63-34832 through 63-34838, and 63-34840 through 63-34846* ("Applications") with the Idaho Department of Water Resources ("Department"). The Department published notice of each of the 14 applications in the Idaho Press-Tribune for two consecutive weeks on January 16 and January 23, 2020. Farmers Co-Operative Ditch Company ("FCDC") timely protested each of the applications.

On March 19, 2020, the Department held a pre-hearing conference at which OMM and FCDC did not resolve the issues of protest and requested the Department hold a hearing to decide the contested cases. On April 6, 2020, the Department's hearing officer ("Hearing Officer") issued the *Order Consolidating Matters for Hearing, Notice of Hearing, and Scheduling Order* ("Consolidation Order") consolidating the Applications for hearing and establishing a hearing schedule.

On June 15, 2020, the Hearing Officer conducted an administrative hearing for the protested Applications at the Department's main office in Boise. Attorney Albert Barker represented OMM at the hearing. Attorney Bryce Farris represented FCDC at the hearing.

The Hearing Officer admitted exhibits offered by OMM and FCDC into the administrative record.[1] The Hearing Officer also took official notice of the Applications and associated documents identified in the Consolidation Order, past Department orders and decisions, reports, measurements, stream flow records, and well driller reports, all from the Department's records pursuant to IDAPA 37.01.01.602. Craig Froerer (OMM member), Alan Mills and Matt Wilke (Mills & Co. Realty, Inc.), Lori Graves (SPF Water Engineering, LLC), Tom Johnston (FCDC Board Member), and Rod Nielson (FCDC President) testified at the hearing.

On July 28, 2020, OMM filed *Notice of Assignment of Application* ("Assignment") and submitted the appropriate Department form assigning all 14 applications to Eden's Gate LLC ("EG"). With the Assignment, OMM filed *Declaration of Madison Richards* ("EG Declaration"). Madison Richards is an original governor of EG. *EG Declaration* at 1. Also on

[1] The following exhibits were admitted into the record: 1-11, 13-14, 16, 19, 24, 26, 28, 29, 103, 105, 107, 109, 112-118, and 121.

July 28, 2020, FCDC filed *Protestant Farmers Co-Operative Ditch Company's Response to Notice of Assignment of Applications* ("FCDC Assignment Response").

On July 29, 2020, OMM filed *One More Mile LLC's Response to Farmer's Co-Op's Objection to Notice of Assignment of Application for Permit.*

Although the Hearing Officer closed the administrative record at the conclusion of the hearing, the Department's Water Appropriation Rules require OMM to notify the Department of the assignment and include evidence that the application was not filed for speculative purposes. *See* IDAPA 37.03.08.035.02.d and 37.03.08.035.04.f. Both OMM and FCDC have submitted responses to the Assignment. The Assignment and associated documents conveyed all interest in the Applications and ownership of the land to EG, and demonstrate EG has similar intentions as those demonstrated by OMM. OMM was the owner at the time of hearing and participated in the hearing to develop a record for decision. Although EG is now the applicant, the decision is based on the information in the record provided by OMM. However, the assignment of the applications and the change in ownership of the Applications' place of use cannot be disregarded by the Hearing Officer as these transactions may change the analysis of facts already in the record. The Hearing Officer considered the impact of the Assignment, as appropriate, in evaluation of the criteria in this decision.

After carefully considering the evidence in the record, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. OMM filed 14 Applications to divert ground water for domestic and irrigation purposes on 14 separate land parcels located within River Bluff Development near Fruitland in Canyon County. Exhibit 4 at 4. Table 1 summarizes the Applications.

IDWR Application Number	Proposed Priority Date	Domestic Rate (cfs)	Irrigation Rate (cfs)	Total Rate (cfs)	Proposed Acres	Parcel
63-34832	01/02/2020	0.04	0.07	0.11	2.3	11
63-34833	01/02/2020	0.04	0.05	0.09	1.5	12
63-34834	01/02/2020	0.04	0.07	0.11	2.3	13
63-34835	01/02/2020	0.04	0.05	0.09	1.5	14
63-34836	01/02/2020	0.04	0.06	0.10	1.9	15
63-34837	01/02/2020	0.04	0.04	0.08	1.3	16
63-34838	01/02/2020	0.04	0.05	0.09	1.5	17
63-34840	01/02/2020	0.04	0.05	0.09	1.5	4
63-34841	01/02/2020	0.04	0.06	0.10	2.1	5
63-34842	01/02/2020	0.04	0.05	0.09	1.5	6
63-34843	01/02/2020	0.04	0.07	0.11	2.2	7
63-34844	01/02/2020	0.04	0.05	0.09	1.5	8
63-34845	01/02/2020	0.04	0.07	0.11	2.2	9
63-34846	01/02/2020	0.04	0.05	0.09	1.5	10
Total		**0.56**	**0.79**	**1.35**	**24.8**	

Table 1: Summary of Applications.

2. The irrigation place of use for each application is the total acreage of the parcel less 0.5 acres for buildings and other hardscape. Exhibit 11 at 6.

3. OMM requests the use of ground water as the sole source of water for irrigation of the proposed places of use and proposes to cease use of surface water. Exhibit 4 at 2.

4. The Applications propose construction of a single, six-inch diameter well, 200 feet (ft) in depth, per parcel. The proposed water bearing zone for each well is 40 to 200 ft below ground surface (bgs). Exhibit 4 at 1-2.

5. OMM hired Adamson Pump & Drilling to construct a domestic well ("Test Well") on Lot 8, Block 1 of the Orchard Tract.[2] The Test Well is completed to a depth of 154 ft bgs and is screened from 144 ft to 154 ft. The static water level of the well was 45 ft bgs with water first encountered at 35 ft bgs. The pump test conducted by the well driller yielded a discharge of 50+ gallons per minute (gpm) with 75 ft of drawdown. Exhibit 7.

6. Yield from the Test Well is 50+ gpm or 0.11+ cfs, which is greater than the largest total diversion rate proposed under any one of the Applications.

7. There are 37 wells within a half-mile radius of the Applications' proposed points of diversion. Of the 37 wells, 36 were permitted for domestic use, and one was for irrigation use. The well depths range from 27 ft bgs to 208 ft bgs. The static water levels range from 3 ft bgs to 99 ft bgs. The yields range from 15 gpm[3] to 100 gpm. Exhibit 8.

8. Hydrographs for four wells in the lower Boise River drainage show stable water levels with no indication of ground water declines. The nearest of these four wells is approximately five miles from the Applications' points of diversion. Exhibit 9.

9. Developing residential use increases Canyon County tax revenues. Testimony of Alan Mills.

10. Road, phone, power, and utility infrastructure is already constructed to allow for residential development of the Applications' proposed points of diversion and places of use. Testimony of Alan Mills.

11. As of June 15, 2020, eight of the 14 parcels proposed for residential development under the Applications were for sale. There are no additional Canyon County approvals necessary to list the remaining parcels for sale. Testimony of Matt Wilke.

12. As of June 15, 2020, one of the parcels was pending sale contingent upon the outcome of the Applications. Testimony of Matt Wilke.

13. OMM intended for the buyer of each parcel to bear the costs of drilling the wells proposed by the Applications. The cost to install a pressurized irrigation system, if required, would initially be borne by the developer, but ultimately passed on to the buyer. Testimony of Alan Mills. Similarly, EG's intent is to "sell the lots with their respective permits." EG Declaration. It is reasonable to conclude EG also intends for

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[2] This location is referred to as Parcel 16 on Application for Permit to Appropriate Water No. 63-34837.

[3] Exhibit 8 contains a record of a well for Grant Peterson (Map No. 27) reporting 0 gpm production. Department records suggest this is a typographical error as the well construction report for the well lists a pump test rate of 20 gpm.

the cost of well construction and permit development to ultimately be borne by the buyers.

14. The Applications state the points of diversion and places of use are owned by OMM. Exhibit 4 at 2. As of June 15, 2020, the points of diversion and property underlying the places of use were owned by OMM. Testimony of Craig Froerer. On July 28, 2020, the Department received notification the Applications' points of diversion and the property underlying the places of use were owned by EG. EG Declaration at 1. A deed included with the Assignment shows the property was conveyed to EG on July 22, 2020, approximately one month after the hearing.

15. The Applications' places of use are within the FCDC service area ("FCDC Service Area"). *See* water right nos. 63-138C, 63-188, 63-189, 63-190, 63-191, 63-296, 63-4851, 63-4852, 65-66, and 65-67.

16. FCDC, a cooperative ditch company, originated in 1902 when settlers purchased water rights and created the company to issue stock to private landowners for the use of those water rights. Exhibit 13 at 7.

17. Article V, Section 3 of *Farmers Coop Amended By-Laws* dictates that FCDC issue shares of the capital stock. These shares entitle the shareholder to "the perpetual and equitable right to the [FCDC's] available water supply, water rights and irrigation system . . . ." Exhibit 16 at 5.

18. OMM is the holder of 64 shares of FCDC capital stock. Exhibit 10.

19. The 64 shares of FCDC capital stock entitle OMM to irrigate up to 128 acres of land. Testimony of Tom Johnston.

20. OMM retained ownership of the 64 FCDC shares when it conveyed the Applications' points of diversion and property underlying the places of use to EG. Assignment at 1.

21. As of June 15, 2020, OMM owned 112 acres of land within the FCDC Service Area. OMM has historically diverted water from the FCDC delivery system to irrigate 89 of the 112 acres owned by OMM. OMM does not own any additional land within the FCDC Service Area. Testimony of Craig Froerer.

22. In 2018 and 2019, OMM used water from the FCDC delivery system to drip-irrigate sweet potatoes on the Applications' proposed places of use. In 2020, OMM used water from the FCDC delivery system to irrigate sugar beets on a portion of the Applications' proposed places of use. Testimony of Craig Froerer.

23. On June 1, 2020, OMM and JC Watson Company ("Watson") entered into a *Contract for Purchase and Sale of Water Shares* ("Agreement"). The Agreement states OMM will transfer 14 of its 64 FCDC shares to Watson "upon final approval of the ground water rights [Applications] for the 14 lots [Applications' place of use]." Exhibit 29 at 1.

24. As a FCDC shareholder, OMM is subject to the FCDC Amended By-Laws. Testimony of Craig Froerer.

25. Article II, Section 2, paragraph d. of *Farmers Coop Amended By-Laws* states the FCDC board of directors can adopt rules and regulations for the conduct and business affairs of FCDC. Exhibit 16 at 2.

26. Article VI of *Farmers Coop Amended By-Laws* states the transfer of FCDC shares is subject to the approval of the FCDC board of directors. Exhibit 16 at 5. Testimony of Tom Johnston.

27. Article VII, Section 5 of the *Farmers Coop Amended By-Laws* states:

> If any shareholder shall divide . . . any portion of his land and who shall sell shares in the Company to persons acquiring any such lands then such shareholder dividing said land shall provide for a ditch distribution system, easements and weirs for the division and distribution of water to the property so divided. Any division or system described above must be approved by the Board of Directors. All costs of ditch, weirs, and any other equipment or irrigation devices necessitated by such land division shall be paid entirely by the shareholders selling or subdividing such land.

Exhibit 16 at 6.

28. A resolution adopted August 13, 2003, by FCDC states that any shareholder who subdivides land into three or more parcels shall transfer ownership of the associated FCDC shares to one designated person or entity. Exhibit 16 at 6.

29. The main purpose of the August 13, 2003, resolution is "to keep [FCDC] water rights in agricultural production and the stock certificates as whole as possible . . . ." Exhibit 16 at 6 and Exhibit 105 at 31.

30. FCDC desires to avoid having the water it delivers replaced with other water sources, such as ground water or wastewater. Testimony of Tom Johnston. On March 11, 2020, FCDC adopted a resolution stating "all shareholders must use surface water deliveries from the Ditch Company [FCDC] pursuant to the shareholders existing shares, prior to any use of ground water for irrigation purposes. . . ." Exhibit 28. Exhibit 103.

31. FCDC shares are not appurtenant to the land they are associated with and can be transferred for use on other lands within the FCDC Service Area. Testimony of Tom Johnston.

32. As of June 15, 2020, OMM is a shareholder entitled to and capable of receiving water from FCDC to the Applications' proposed places of use. Testimony Craig Froerer.

33. On November 29, 2007, Canyon County's Development Services Department authorized the division of eight Orchard Tract lots into 17 parcels. Exhibits 3 and 112. The Applications' places of use are 14 of the 17 parcels. The parcels were zoned agricultural and the zoning designation was not changed during the division. Testimony of Alan Mills.

EVALUATION CRITERIA / ANALYSIS

Governing Statutes and Rules

Idaho Code § 42-203A(5) states in pertinent part:

> In all applications whether protested or not protested, where the proposed use is such: (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest as defined in section 42-202B, Idaho Code, or (f) that it is contrary to conservation of water resources within the state of Idaho . . . the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

Rule 45 of the Department's Water Appropriation Rules (IDAPA 37.03.08) further interprets the review criteria established in Idaho Code § 42-203A(5).

Rule 50.01 of the Department's Water Appropriation Rules (IDAPA 37.03.08) states that the Director may issue permits with conditions to insure compliance to meet the criteria of Idaho Code § 42-203A.

The applicant bears the burden of proof for elements (a) through (d) in Idaho Code § 42-203A(5). *See* IDAPA 37.03.08.040.04. All parties bear the burden of coming forward with evidence about any factor affecting local public interest of which they are knowledgeable. *Id.* The applicant bears the ultimate burden of persuasion for all of the elements in Idaho Code § 42-203A(5), including the local public interest element. *Id.*

Reduction to Existing Water Rights

Rule 45.01.a of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth the criteria for determining whether a proposed use of water will reduce the quantity of water under an existing water right:

> A proposed use will be determined to reduce the quantity of water under an existing water right (i.e., injure another water right) if:
>
> i. The amount of water available under an existing water right will be reduced below the amount recorded by permit, license, decree or valid claim or the historical amount beneficially used by the water right holder under such recorded rights, whichever is less.
> ii. The holder of an existing water right will be forced to an unreasonable effort or expense to divert his existing water right. Protection of existing groundwater rights are subject to reasonable pumping level provisions of Section 42-226, Idaho Code…

IDAPA 37.03.08.045.01.a.

FCDC stipulated that injury to existing water users is not at issue. The Applicant still has the burden to come forward with evidence demonstrating the proposals meet this criterion. IDAPA 37.03.08.040.04. OMM provided a diagram depicting nearby wells and summarized

their depths, static water levels, and yields. FCDC provided no evidence to refute the evidence submitted by OMM. Of the 37 wells within a half-mile radius of the Applications' proposed points of diversion, all but one of these wells is for domestic use. These wells are relatively shallow, with the deepest well depth being 208 ft. These wells are also relatively productive, with all but three of the wells reported as capable of producing in excess of the Department's standard 0.04 cfs (18 gpm) duty of water for domestic use. The quantity of water proposed from all 14 Applications combined is 1.35 cfs, with only 0.56 cfs being for year-round domestic use. Given the relatively high yields at shallow depths, it is not likely the proposed use will reduce the quantity of water under existing ground water rights or uses in the area nor force existing users to an unreasonable expense to continue their ground water use.

The Hearing Officer finds the evidence presented by OMM persuasive. The Applications development of ground water use in the proposed project location will not reduce the quantity of water available to existing water users or force existing water users to an unreasonable effort or expense to continue their ground water uses. The Assignment does not change the facts. The burden is still met.

Sufficiency of Water Supply

Rule 45.01.b of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth the criteria for determining whether the water supply is sufficient for a proposed project: "The water supply will be determined to be insufficient for the proposed use if water is not available for an adequate time interval in quantities sufficient to make the project economically feasible . . ." IDAPA 37.03.08.45.01.b.

Rule 45.01.b requires the Department to evaluate whether the aquifer is capable of supplying the proposed rate and volume of diversion. FCDC stipulated that sufficiency of the ground water supply is not at issue. The Applicant still has the burden to come forward with evidence demonstrating the proposals meet this criterion. IDAPA 37.03.08.040.04. OMM provided the well log for the Test Well constructed in Parcel 16. The Test Well yielded over 50 gpm, which is over 0.11 cfs. The maximum amount of water proposed under any one of the Applications is 0.11 cfs. The Applications each propose to construct and use an individual well to supply only one parcel. The 14 proposed wells will be constructed in close proximity to the test well within a single forty-acre tract. Therefore, the Test Well is likely representative of what can be developed for each parcel. It is likely wells can be constructed to supply the quantities proposed in the Applications.

The Hearing Officer finds the evidence presented by OMM persuasive. OMM has met its burden of establishing that the aquifer can supply a sufficient quantity of water for the proposed projects. The Assignment does not change the facts. The burden is still met.

Lack of Good Faith / Speculation

Rule 45.01.c of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth criteria for determining whether an application is filed in good faith and not for speculative purposes. FCDC stipulated that good faith and speculation are not at issue. The Applicant still has the burden to come forward with evidence for evaluation of this criteria. IDAPA 37.03.08.040.04.b.i. An applicant must have "legal access to the property necessary to

construct and operate the proposed project." IDAPA 37.03.08.45.01.c.i. An applicant must also demonstrate that it is "in the process of obtaining other permits needed to construct and operate the project" and that "there are no obvious impediments that prevent the successful completion of the project." IDAPA 37.03.08.045.01.c.ii-iii.

When the Applications were filed, OMM owned the 14 parcels proposed as the Applications' points of diversion and places of use. The land proposed for the places of use was first platted in 1910 and later administratively modified in 2007 to create the 14 parcels proposed for development in the Applications. Exhibits 2, 3, and 112. The parcels are currently zoned for agricultural use, and there is no proposal to rezone them. No additional Canyon County approvals are necessary to sell the parcels to prospective home builders.

OMM purchased the parcels where the points of diversion and places of use are proposed with the intent to sell them to prospective home builders. During the hearing, Matt Wilke testified that one of the parcels is already pending purchase contingent upon the outcome of the Applications. Alan Mills testified that the road, power, telephone, and other utility infrastructure is already in place for development of the parcels. Given the development of the other utilities and that one of the parcels was already pending sale when the hearing occurred, there is a high probability that if the Applications are approved, the parcels will be sold and the proposed water use will be developed

IDAPA 37.03.08.035.02.d requires the assignment of interest in the Applications to include evidence that the Applications were not filed for speculative purposes. In its declaration, EG asserted it does not intend to hold the permits, if approved, for speculative purposes; it intends to sell the parcels and assign the permits to the new parcel owners. OMM also stated the intent of filing the Applications is to sell the parcels for residential development. Testimony of Craig Froerer. OMM's assignment of the Applications to EG, which intends to sell the lots for residential development is consistent with OMM's original intent. EG has not amended the Applications to show any other intent.

OMM has legal access to the property necessary to construct and operate the proposed project. No obvious impediments exist to successful completion of the project. The Assignment included evidence that EG is now the owner of the parcels. EG has legal access to the property necessary to construct and operate the proposed development or to sell the parcels to prospective home builders.

Therefore, OMM met its burden to demonstrate the Applications were made in good faith and not for speculative purposes. The Assignment and associated documents conveyed all interest in the Applications and ownership of the land to EG, and demonstrate EG has similar intentions as those demonstrated by OMM, so the Assignment of the Applications to EG does not materially affect this analysis.

Sufficient Financial Resources

Rule 45.01.d of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth the criteria for determining whether an applicant has sufficient financial resources to complete a project. "An applicant will be found to have sufficient financial resources upon a showing that it is reasonably probable that funding is or will be available for project

construction or upon a financial commitment letter acceptable to the Director." IDAPA 37.03.08.045.01.d.i.

FCDC stipulated that the sufficiency of the Applicant's financial resources is not at issue. The Applicant still has the burden to come forward with evidence demonstrating the proposals meet this criterion. IDAPA 37.03.08.040.04. The costs of developing the water uses proposed in the Applications will ultimately be borne by the buyers of the parcels. The cost of drilling each well proposed under the Applications will be borne by the buyer of the parcel where the well is drilled. If installation of a pressurized irrigation system is necessary to distribute surface water for irrigation purposes, OMM (or EG) will initially bear the cost, but ultimately the cost will be passed on to the buyers of the parcels in the form of higher lot prices. Neither OMM nor EG proposes to bear the cost of well construction or the cost of installing a pressurized irrigation system. Other utility infrastructure is already in place to allow for development of the residences and irrigation uses proposed.

In *Shokal v Dunn*, the Idaho Supreme Court held, in pertinent part:

> The water resources of this state [Idaho] are not so limited that they must be safeguarded with permits issued *only* when the applicant has secured all necessary financing prior to the water appropriation permit application. At the same time, the applicant must make a showing that it is reasonably probable he or she will obtain the necessary financing within five years.

Shokal v. Dunn, 109 Idaho 330, 337,707 P.2d 441, 448 (1985) (emphasis in original).

Given OMM's and EG's ability to purchase the land and that the water infrastructure costs will ultimately be borne by the buyers of the parcels, it is reasonably probable financial resources will be available to develop the project. Based on the premise that EG's intentions for development are similar to OMM's, the Assignment does not change the conclusion that it is reasonably probable financing will be available. OMM (EG) has met its burden of establishing sufficient financial resources are available to complete the project.

Local Public Interest

The local public interest analysis under Idaho Code § 42-203A(5)(e) is meant to be separate and distinct from the injury analysis under § 42-203A(5)(a). Local public interest is defined as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." Idaho Code § 42-202B(3).

The burden of coming forward with evidence to evaluate local public interest factors is shared by both the protestant and applicant. The applicant must come forward with evidence as to any factor affecting the local public interest of which he is knowledgeable or reasonably can be expected to be knowledgeable, and the protestant must come forward with evidence as to any factor of which the protestant can reasonably be expected to be more cognizant than the applicant. *See* IDAPA 37.03.08.040.04. The applicant bears the ultimate burden of persuasion for all of the elements in Idaho Code § 42-203A(5), including the local public interest element. *Id.*

The local public interest issues relevant to the Applications extend beyond the impact the diversion and use of ground water for irrigation and domestic purposes will have on the ground water supply. The Department's role under the local public interest inquiry includes consideration of all locally important factors affecting the public water resources.[4]

Central to this contested case is whether it is inconsistent with the local public interest to cease using surface water to irrigate the parcels and instead use ground water as the sole source of irrigation water. The Applications each propose to irrigate the places of use solely with ground water. At the time the Applications were filed, OMM owned the land and owned shares in FCDC. At the time of the hearing and historically, the FCDC delivery system has been used to supply water (pursuant to the FCDC shares) to irrigate the places of use for the Applications. Each application included a letter signed by representatives of OMM stating the surface water authorized by the shares would be "used elsewhere in the irrigation district" or the shares would be sold. OMM proposed selling 14 of its FCDC shares to Watson for use on Watson's land.

OMM's intent to irrigate the parcels solely with ground water is unambiguous. OMM states irrigating with surface water would be inconvenient for the residents of the development, and the quality of the surface water (silt, seed, and pesticide content), may not be compatible with the desires of the residents or the types of irrigation systems likely to be used. Testimony of Mills, Testimony of Wilke.

FCDC asserts OMM's proposal to discontinue the use of surface water is inconsistent both with Idaho Code § 67-6537[5] and the FCDC bylaws. On the other hand, OMM asserts Idaho Code § 67-6537 is not applicable and that the bylaws of FCDC do not prevent OMM from transferring use of water pursuant to OMM's shares to another water user or property.

Idaho Code § 67-6537 and the Local Public Interest

A threshold question is to what extent must the Department enforce the provisions of Idaho Code § 67-6537. Idaho Code § 67-6537 states:

> (1) The intent of this section is to encourage the use of surface water for irrigation. All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation. Surface water shall be deemed reasonably available if:

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[4] *See* legislative intent for HB 284, the 2003 bill that enacted the current definition of "local public interest" at Idaho Code § 42-202B(3):

> Water Resources role under the "local public interest" is to ensure that proposed water uses are consistent with securing "the greatest possible benefit from [the public waters] for the public." Thus, within the confines of this legislation, Water Resources should consider all locally important factors affecting the public water resources, including but not limited to fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation, navigation, water quality and the effect of such use on the availability of water for alternative uses of water that might be made within a reasonable time.

[5] The Idaho Legislature has expressed a strong public policy in favor of irrigating with surface water, where available, and preserving ground water for supplemental irrigation uses. This policy is expressly articulated in Idaho Code § 67-6537.

(a) A surface water right is, or reasonably can be made, appurtenant to the land;

(b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity's distribution system is capable of delivering the water to the land; or

(c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.

(2) Consistent with sections 42-108 and 42-222, Idaho Code, any change in the nature of use of surface water provided by an irrigation delivery entity must be authorized by the entity holding the water right(s) for the available surface water. Nothing in this section shall alter the authority and discretion of irrigation delivery entities to apportion, allocate and distribute surface water, or for municipalities, counties, or water and sewer districts to pass ordinances or regulations to promote the use of surface water for irrigation.

(3) Nothing in this section shall be construed to override or amend any provision of title 42 or 43, Idaho Code, or impair any rights acquired thereunder.

(4) When considering amending, repealing or adopting a comprehensive plan, the local governing board shall consider the effect the proposed amendment, repeal or adoption of the comprehensive plan would have on the source, quantity and quality of ground water in the area.

Idaho Code § 67-6537 is in the land use planning chapter of the Idaho Code. The provisions of Idaho Code § 67-6537 are operative only when there is a "land use change", not a water right change, even if the proposed water right change is a change in the character of the use of water on the land. Idaho Code § 67-6537 is a directive to local governments that are responsible for local land use planning and are considering a change in the use of land. As a result, Idaho Code § 67-6537 does not mandate that the Department require the use of surface water, if available to a property, when considering an application to appropriate water. Nevertheless, Idaho Code § 67-6537 expresses the intent of the State of Idaho to encourage the use of surface water for irrigation. It is appropriate for the Department to consider this intent among other local public interest factors when evaluating an application to appropriate water.

In general, the use of available surface water rather than ground water for irrigation can have substantial benefits, including the following:

- It conserves ground water for uses that depend on the (typically) better water quality of ground water compared to surface water.

- It maintains the surface water distribution system as a source of ground water recharge.[6]
- It helps to preserve the economic viability of the surface water delivery entities.

The Department must evaluate these benefits appropriately against all other relevant elements of the local public interest and their relative weights based on local needs, circumstances, and interests.[7]

The facts established at hearing lead to a conclusion that surface water was reasonably available to OMM. Neither OMM nor FCDC presented evidence about conserving the ground water for other uses or about maintaining surface water deliveries to accomplish ground water recharge. Consequently, the Hearing Officer concludes that these general benefits remain consistent with the local public interest.

As for FCDC's economic viability, it is largely a matter of its own internal affairs. Nevertheless, the impact a proposed change in water delivery within the FCDC service area has on the long-term viability of the organization is a significant element of local public interest and will be discussed elsewhere in this decision.

FCDC's Role

The local public interest concern most at issue in this contested matter is whether the proposal to irrigate primarily with ground water and to cease using FCDC surface water will result in an overall reduction in use of FCDC surface water and a consequent reduction in the benefits of that use. As discussed above, continued use of surface water and the benefits associated with the use of surface water are in the local public interest. In other words, evaluating the local public interest includes an evaluation of what is to become of the shares historically used to supply irrigation water to the proposed places of use. If the Department approves the Applications as proposed, the FCDC shares will not be used to continue to irrigate what is now EG's property. If those shares are not put to beneficial use on other lands, then the ground water use under the Applications will simply be replacing the current surface water use.

OMM proposed selling 14 of its FCDC shares to Watson for use on Watson's land. This sale of shares would require approval by the FCDC Board of Directors. Exhibit 26. The change in place of use may also require the consent of FCDC pursuant to Title 42, Idaho Code.[8]

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[6] The Idaho Legislature recognized incidental recharge as in the public interest. Idaho Code § 42-234(5) states, in pertinent part, "Incidental recharge of aquifers which occurs as a result of water diversion and use that does not exceed the vested water right of water right holders is in the public interest. The values of such incidental recharge shall be considered in the management of the state's water resources."

[7] Idaho Code § 42-203A "places upon the Director [of the Department] the affirmative duty to assess and protect the public interest." *Shokal v. Dunn*, 109 Idaho 330, 337,707 P.2d 441, 448 (1985). "The relevant elements [of the local public interest] and their relative weights will vary with local needs, circumstances, and interests." *Dunn*, 109 Idaho at 339,707 P.2d at 450. "The determination of what elements of the public interest are impacted, and what the public interest requires, is committed to [the Department's] sound discretion." *Id.*

[8] The specific acres irrigated within a generally described place of use can be changed without a transfer pursuant to Idaho Code § 42-222, subject to other governing law. *See* Idaho Code § 42-219. The other governing law includes Idaho Code § 42-108. Idaho Code § 42-108 states, in part: The person entitled to the use of water or

FCDC has a process for reviewing for approval or denial transfers of ownership of shares and changes in the location of delivery and use of water pursuant to those shares. It is reasonable to assume that any decision arising from FCDC's review process would consider the impacts on FCDC's economic viability and would support FCDC's interests in continued beneficial use of its water by its shareholders. FCDC's interests in these matters are consistent with the local public interest as discussed above. FCDC's decision regarding OMM's proposal to sell its shares to Watson or OMM's proposal in general to change the location of delivery to other lands would, therefore, be a determining factor in evaluating this aspect of the local public interest. FCDC has protested the Applications and has not reviewed or approved of OMM's proposal to sell the 14 shares to Watson. In the absence of FCDC's review and consent, the Hearing officer cannot conclude approving the use of ground water as a primary source of irrigation water will not adversely impact the local public interest in maintaining the use of surface water and the viability of FCDC. In other words, without the review by FCDC, the continued beneficial use of the 14 shares is uncertain. This uncertainty calls into question whether the Applications will simply replace existing surface water use with ground water.

Post-Hearing and Conclusion

Subsequent to the hearing, OMM assigned the lands and interest in the Applications to EG, but withheld ownership of its FCDC shares. Since EG is not a FCDC shareholder, EG is not entitled to surface water delivery from FCDC. Surface water is not reasonably available to EG to irrigate the proposed places of use.

Because OMM did not demonstrate it is in the local public interest to cease using existing surface water on the proposed places of use, and because surface water is not available to EG, the hearing officer concludes the irrigation uses proposed in the Applications cannot be approved.

The domestic portion of the Applications, including up to ½ acre of irrigation, is not inconsistent with the local public interest and is approved.

Conservation of Water Resources

Consideration of whether a proposed use is contrary to conservation of water resources within the State of Idaho is required by Idaho Code § 42-203A(5)(f). The conservation of water resources review is separate and distinct from the local public interest review under Idaho Code § 42-203A(5)(e). The conservation of water resources review is an evaluation of the efficiency of the proposed water use.[9]

The Applications propose using 0.03 cfs per acre for irrigation. This is consistent with Department standards of efficiency for irrigation of small (< 5 acre) parcels. The proposal to

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owning any land to which water has been made appurtenant . . . may change the point of diversion, period of use, or nature of use, and/or may voluntarily abandon the use of such water in whole or in part on the land which is receiving the benefit of the same and transfer the same to other lands . . . provided; if the right to the use of such water, or the use of the diversion works or irrigation system is represented by shares of stock in a corporation or if such works or system is owned and/or managed by an irrigation district, no change in the . . . place of use . . . of such water shall be made or allowed without the consent of such corporation or irrigation district.

[9] The efficiency conservation review is distinct from the local public interest review that can consider whether the water source should be appropriated for a given purpose or "conserved" (held in reserve) for other uses.

divert up to 0.04 cfs for Domestic use is also consistent with Department standard appropriations.

The proposals are not inconsistent with the conservation of water resources in Idaho.

CONCLUSIONS OF LAW

The burden of proof for all of the elements of review set forth in Idaho Code § 42-203A(5) is satisfied to the extent a partial approval may be granted.

ORDER

IT IS HEREBY ORDERED that Applications for Permit to Appropriate Water No. 63-34832 through 63-34838 and 63-34840 through 63-34846 are PARTIALLY APPROVED as shown in the accompanying approval documents.

Dated this 28th day of May 2021.

Nick Miller
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May 2021, I served a true and correct copy of the following documents on the following by the method(s) indicated below:

- Preliminary Order Partially Approving Applications In The Matter of Applications for Permit No. 63-34832 Through 63-34838 and 63-34840 Through 63-34846, All In The Name Of Eden's Gate LLC

Eden's Gate LLC
3150 Echo Rd
Nyssa OR 97913-5022
541.121.1204
Applicant

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Facsimile
- ☐ Email

S. Bryce Farris
Sawtooth Law Offices PLLC
PO Box 7985
Boise ID 83707
208.629.7447
bryce@sawtoothlaw.com
Attorney for:
Farmers' Co-operative Ditch Company
Protestant

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Barker Rosholt & Simpson LLP
C/O Albert Barker
1010 W Jefferson St Ste 102
PO Box 2139
Boise ID 83701-2139
208.336.0700
apb@idahowaters.com
Attorney for One More Mile, LLC

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Nick Miller
Manager, IDWR Western Region

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was held)

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, request for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

> Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) The petition for reconsideration is disposed of; or
> (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34844

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 4, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

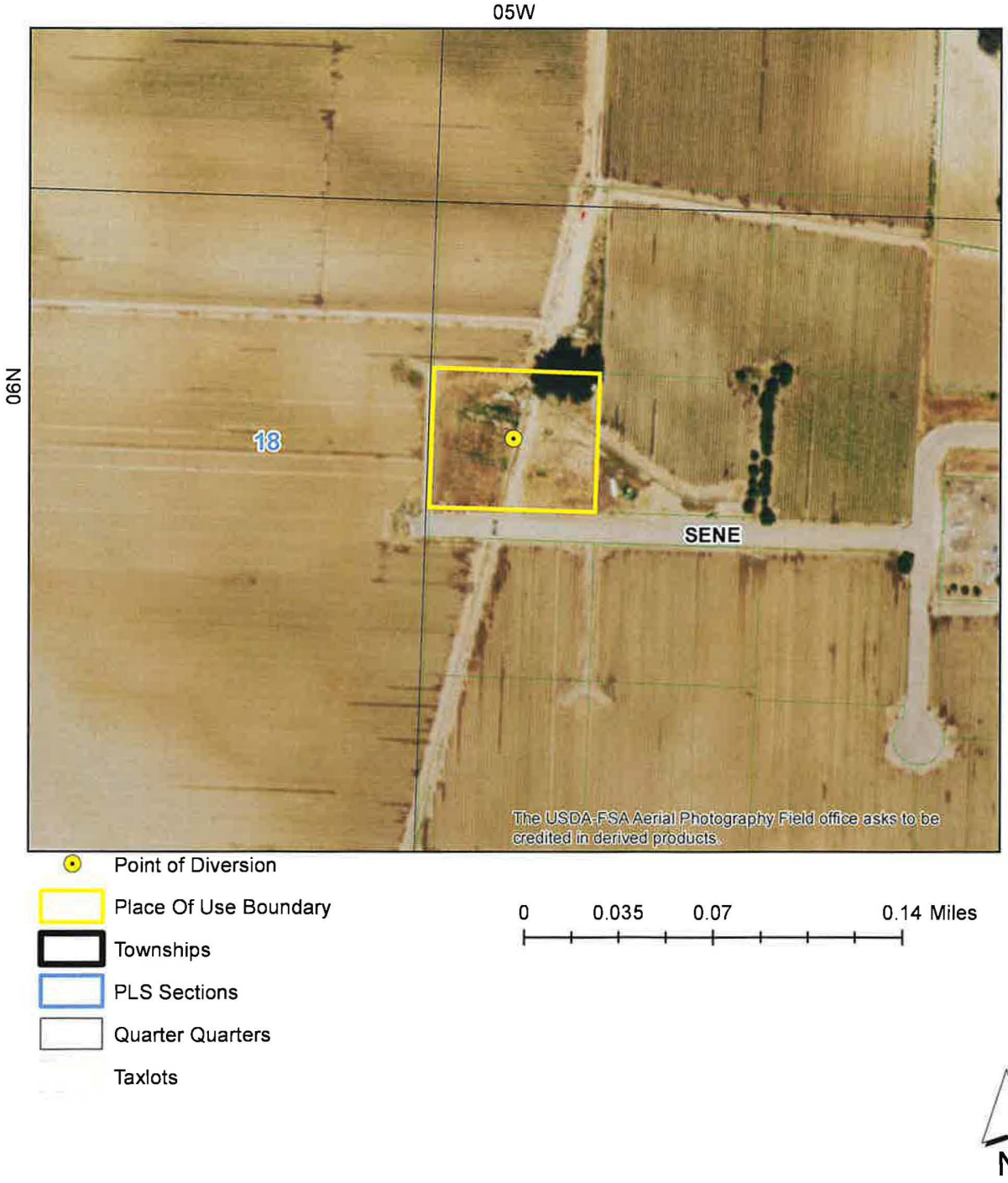
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34844

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34845

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Point of diversion and place of use are located within Parcel B of Lot 4, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

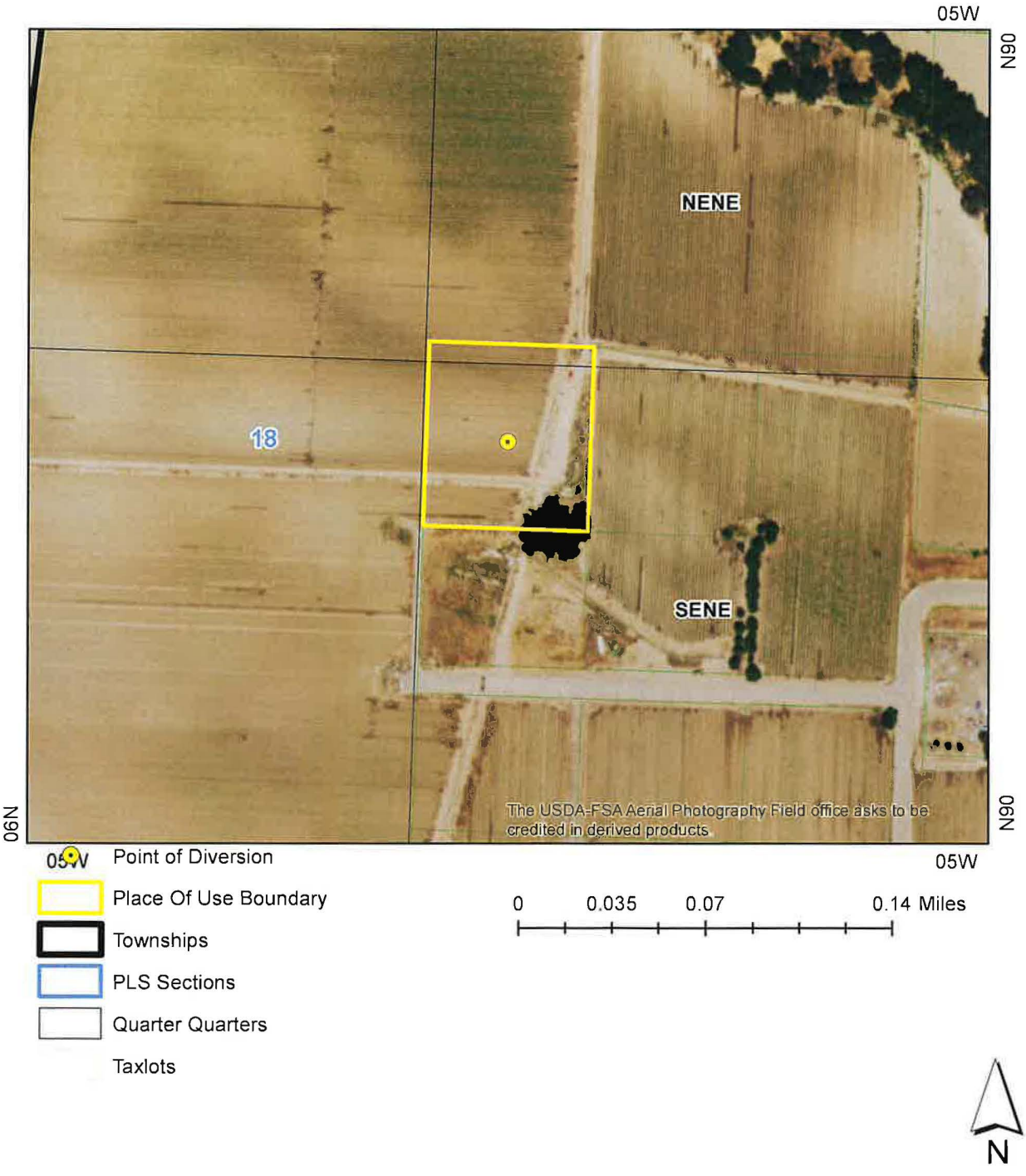
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34845

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34846

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 5, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34846

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters
Taxlots

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34832

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel B of Lot 5, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

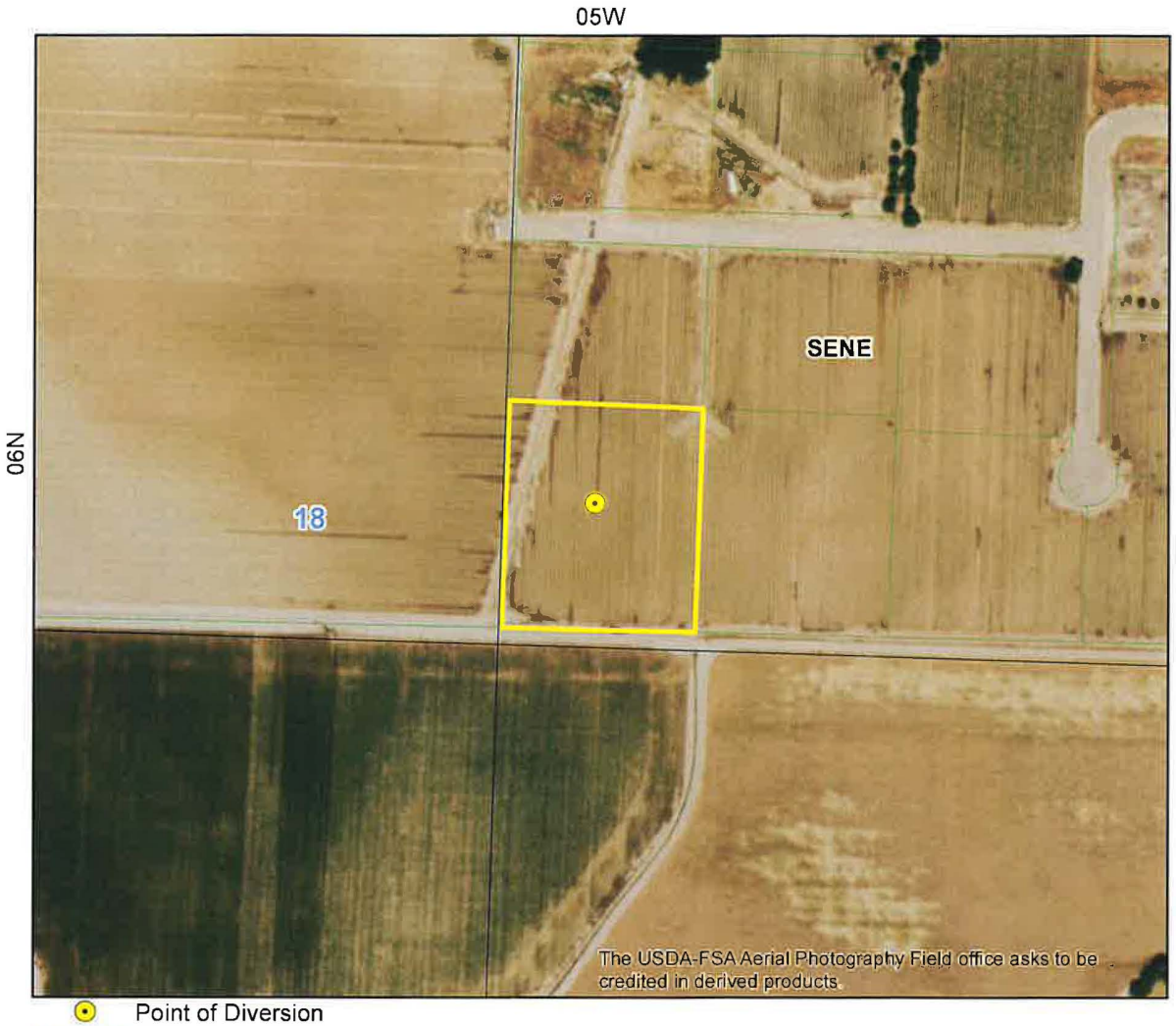
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34832

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters
Taxlots

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34833

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 6, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

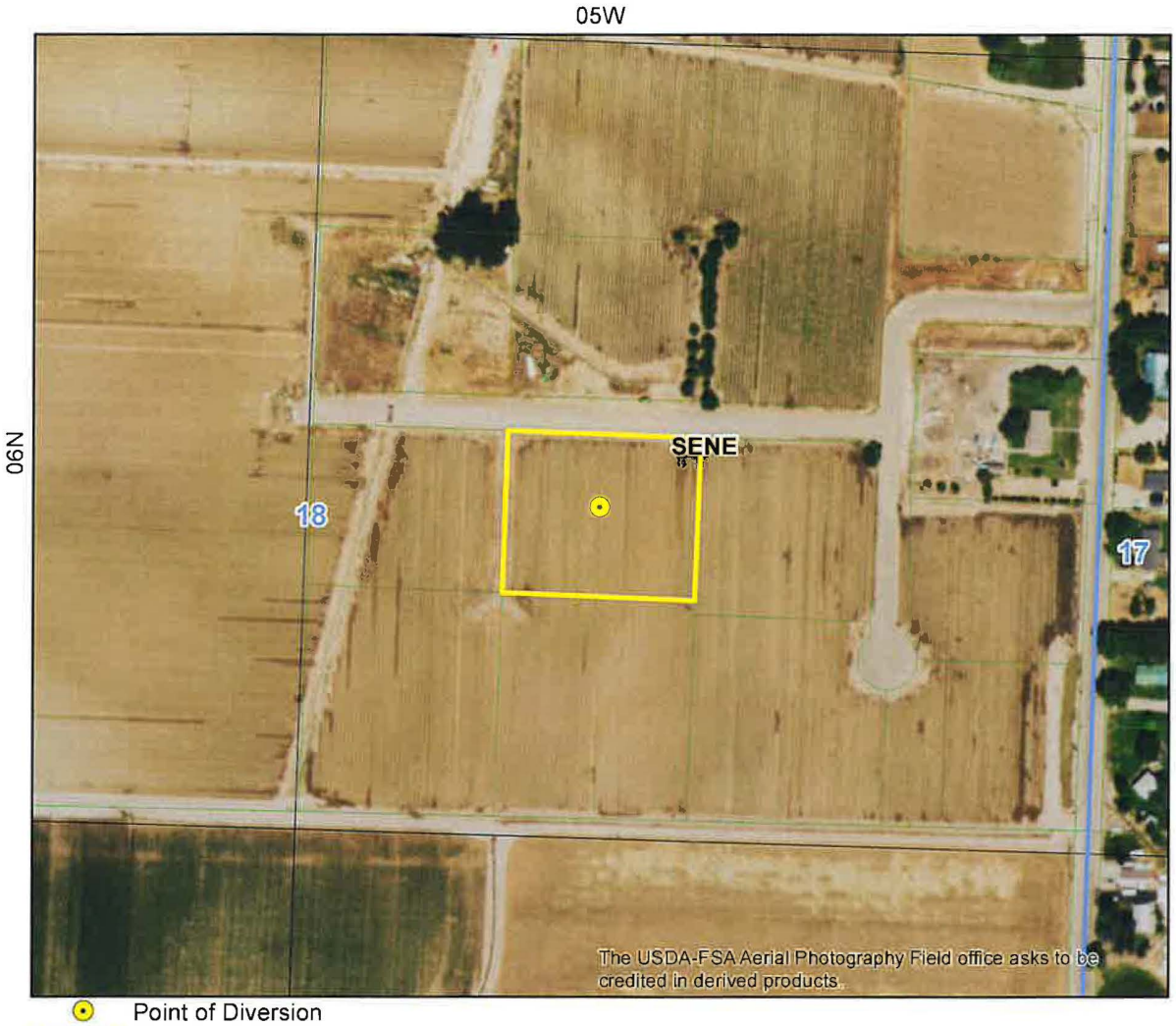
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34833

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34834

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Point of diversion and place of use are located within Parcel B of Lot 6, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34834

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters
Taxlots

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34835

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 7, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 20th day of May, 2021.

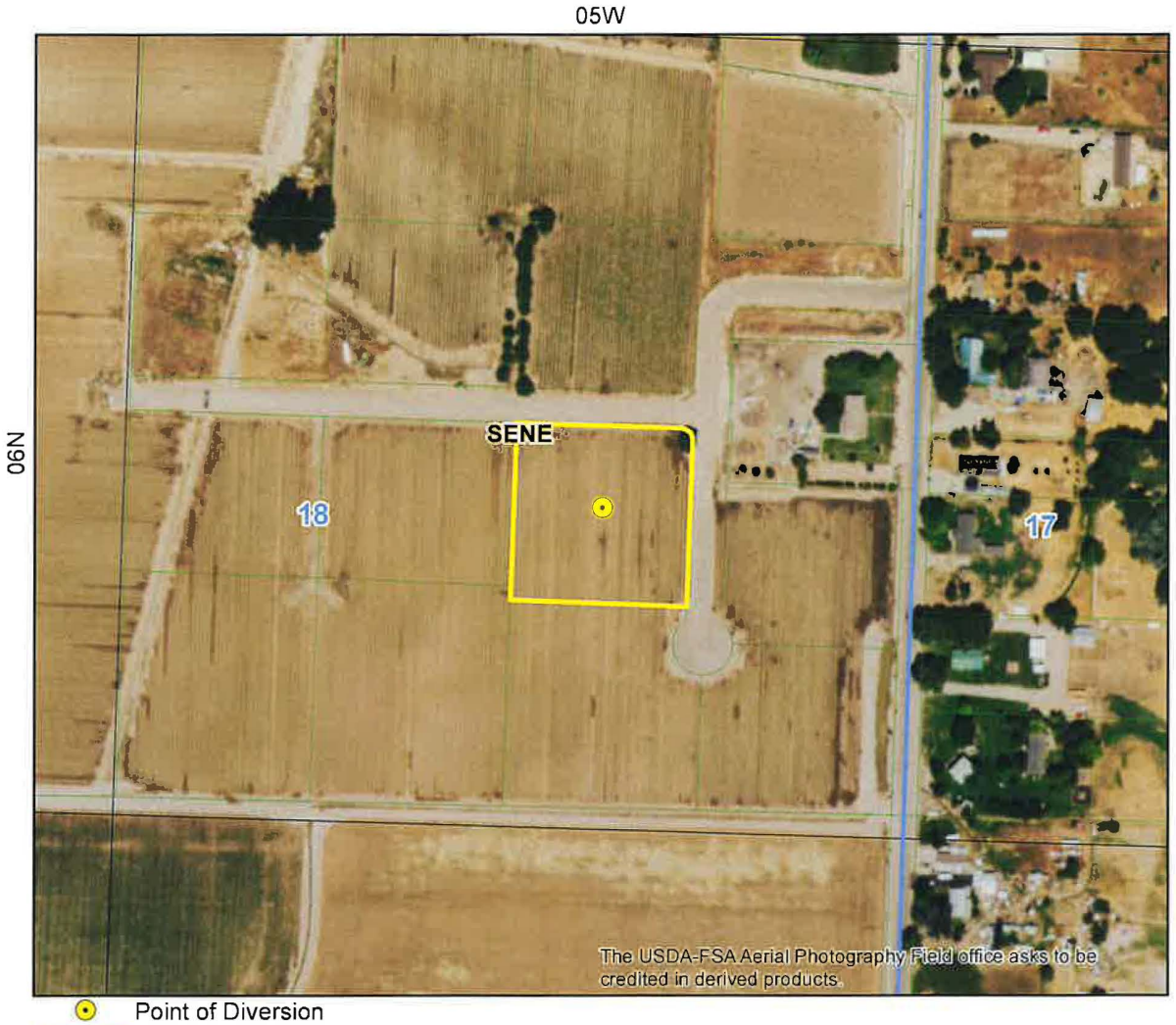
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34835

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters
Taxlots

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34836

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel B of Lot 7, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34836

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters
Taxlots

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34837

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 8, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34837

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34838

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel B of Lot 8, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34838

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34840

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 2, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 20th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34840

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34841

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel B of Lot 2, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34841

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters
Taxlots

0 0.035 0.07 0.14 Miles

N

State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34842

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel A of Lot 3, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

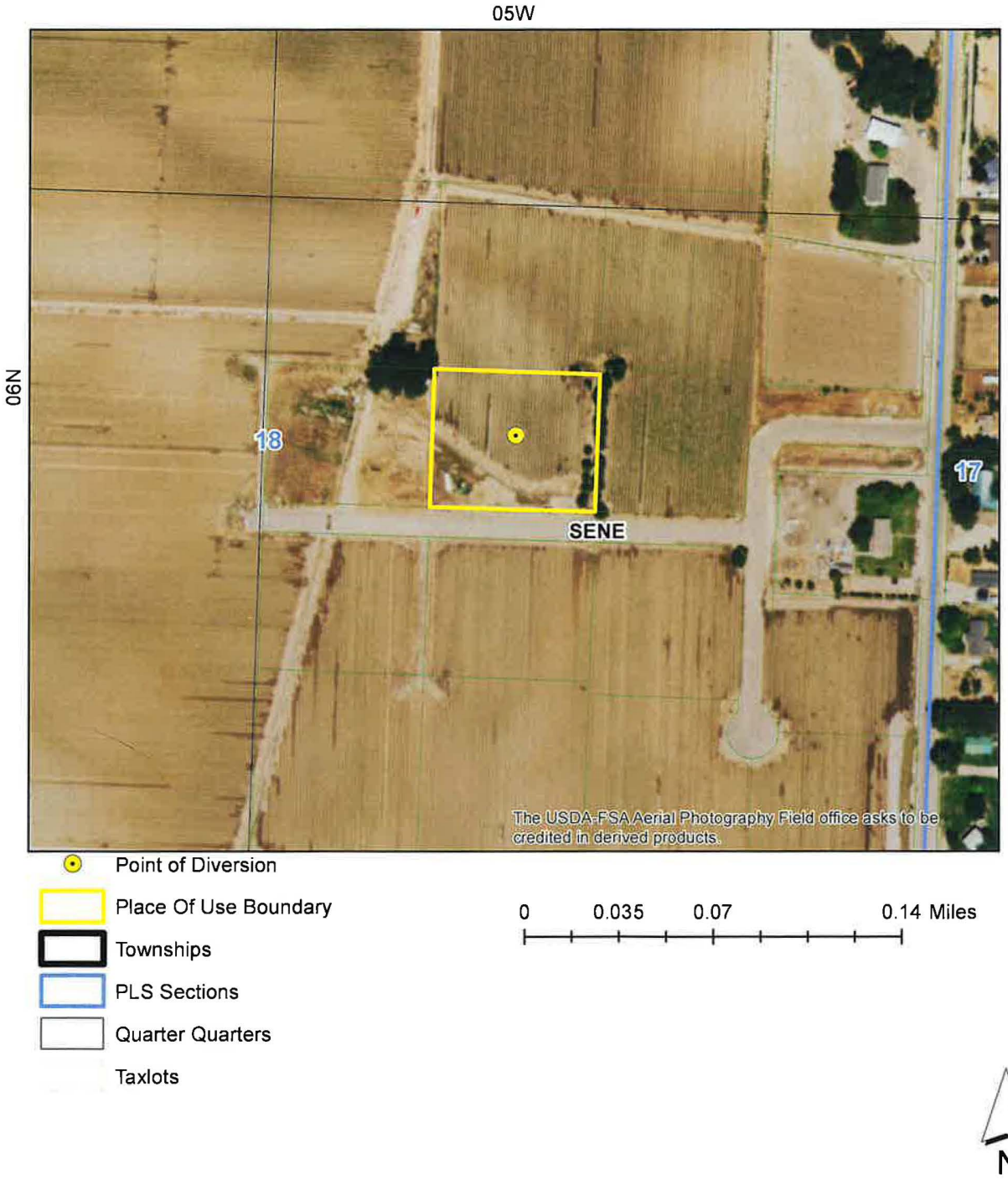
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34842

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 63-34843

Priority: January 02, 2020 **Maximum Diversion Rate:** 0.04 CFS

This is to certify that

EDEN'S GATE LLC 3150 ECHO RD NYSSA OR 97913-5022

has applied for a permit to appropriate water from:

Source : GROUND WATER

and a permit is APPROVED for development of water as follows:

Beneficial Use	Period of Use	Rate of Diversion
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion
GROUND WATER SE¼ NE¼, Sec. 18, Twp 06N, Rge 05W, B.M. CANYON County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	18				X													

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2026.**
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. Point of diversion and place of use are located within Parcel B of Lot 3, Block 1, Orchard Tracts of the Oregon Idaho Orchard Company.
6. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
7. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28th day of May, 2021.

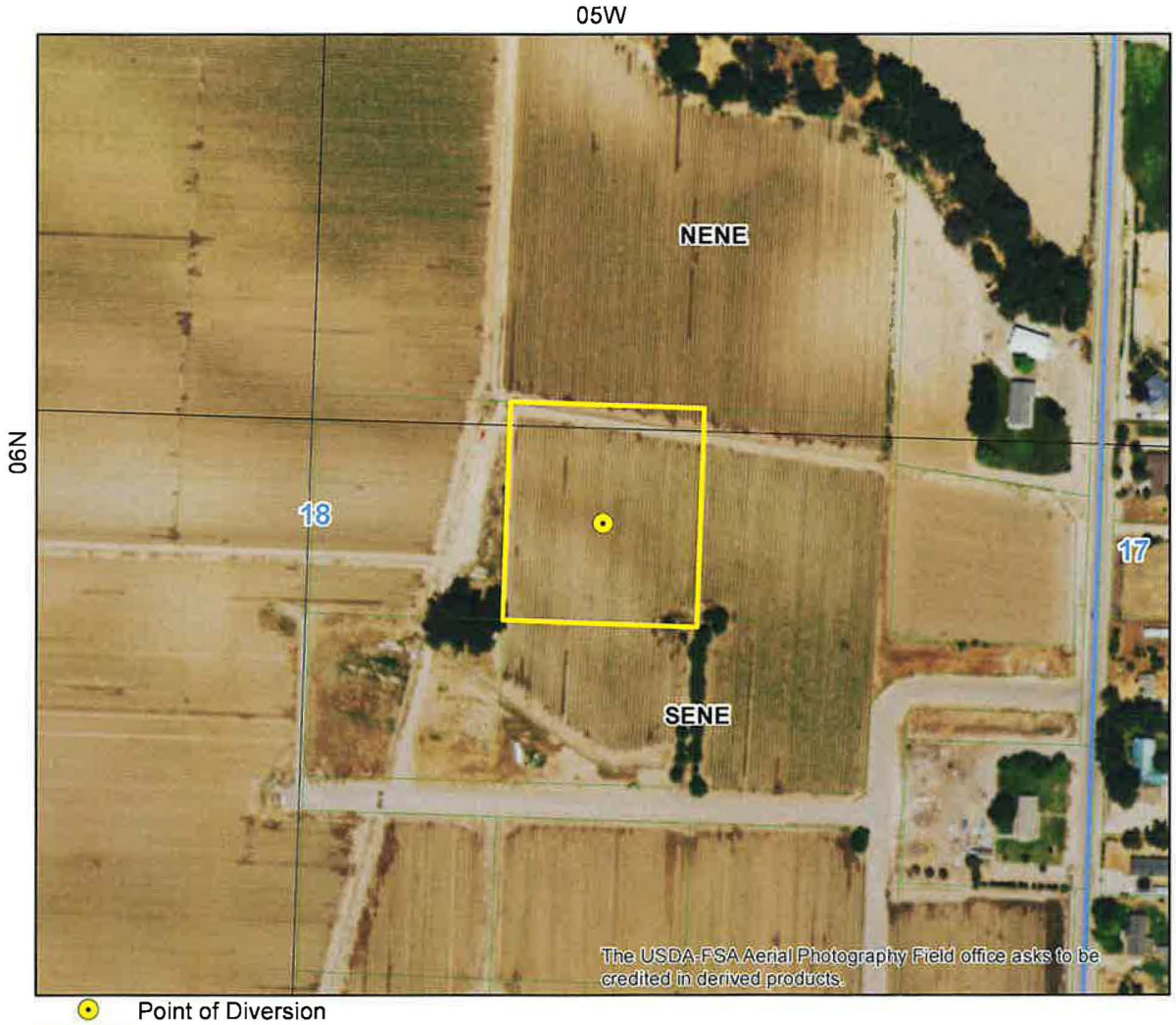
NICK MILLER
Western Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34843

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



Albert P. Barker, ISB No. 2867
Michael A. Short, ISB No. 10554
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
apb@idahowaters.com
mas@idahowaters.com

Attorneys for Eden's Gate LLC

RECEIVED
JUN 11 2021
DEPARTMENT OF
WATER RESOURCES
RECEIVED
JUN 14 2021
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT No. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**MEMORANDUM IN SUPPORT OF NOTICE OF APPEAL AND PETITION TO REVIEW PRELIMINARY ORDER**

COMES NOW Eden's Gate LLC, by and through its attorneys of record, Barker Rosholt & Simpson LLP, pursuant to IDAPA 37.01.01.730.02(c) and hereby submits this *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order*. This matter involves 14 applications for permits for combined domestic and irrigation rights for 14 land lots. In his *Preliminary Order Partially Approving Applications* ("*Preliminary Order*"), the hearing officer issued the permits, but limited the rights to domestic use only, and denied the application for irrigation use. The hearing officer argued that the water supply is sufficient, that there will be no injury to existing rights, that the applicant has financial resources and is acting in good faith, and that the application is consistent with the conservation of water resources. The denial of this application's irrigation rights rested on local public interest grounds, based solely on Farmer's Co-Operative Ditch Company's objection to allowing ground water use in its service area. Eden's

Gate LLC requests the Director reverse the hearing officer's denial of its irrigation water right permit applications as it improperly considers land use planning factors and fails to apply the Idaho Department of Water's ("IDWR") appropriations criteria.

FACTUAL AND PROCEDURAL BACKGROUND

On January 2, 2020, One More Mile LLC ("OMM") filed *Applications for Permit to Appropriate Water No. 63-34832 through 63-34838, and 63-34840 through 63-34846* ("Applications") with the Idaho Department of Water Resources ("IDWR"). The Applications are part of a small, rural development program near Fruitland, Idaho, in which OMM applied for both domestic and irrigation ground water rights for 14 separate land parcels consisting of an average of 1.77 acres each (24.8 total acres). *Preliminary Order*, Findings of Fact ¶ 1. On July 28, 2020, OMM sold its interest in the 14 lots and assigned all 14 applications to Eden's Gate LLC ("EG"). *Preliminary Order*, at 1.

OMM owns 64 shares of Farmer's Co-Operative Ditch Company ("FCDC") capital stock, which entitles OMM irrigation of up to 128 acres of land, or two acres per share, and OMM is fully liable for all FCDC assessments on its 64 shares. *Preliminary Order*, Findings of Fact ¶¶ 18-19. FCDC stock is not appurtenant to the land, and by consequence, is not appurtenant to the 14 lots, instead, FCDC stock may be transferred to use on other lands owned by the stockholder within the service area. *Id.*, ¶ 31. Additionally, FCDC has a service area of over 15,000 acres and water rights for about 10,000 acres.

After OMM's transfer to EG, OMM owns 87.2 acres of land within FCDC's service area, all of which is capable of being irrigated. *See Id.*, ¶ 21. On June 1, 2020, OMM and JC Watson Company ("Watson") entered into a *Contract for Purchase and Sale of Water Shares* ("Agreement"). *Id.*, ¶ 23. The Agreement states OMM will transfer 14 of its 64 FCDC shares to

Watson "upon final approval of the ground water rights [Applications] for the 14 lots [Applications' place of use]." *Id.*

Farmer's Co-Operative Ditch Company ("FCDC") protested these applications alleging that the Applications would reduce the amount of water it delivers and because FCDC "desires to avoid having the water it delivers replaced with other water sources, such as ground water or wastewater." *Preliminary Order*, Findings of Fact ¶ 30. On June 15, 2020, the hearing officer conducted an administrative hearing for the protested Applications. *Preliminary Order*, at 1. FCDC objected to OMM's assignment of the Applications to EG on July 28, 2020, to which OMM responded on July 29, 2020. *Id.*, at 2. On May 28, 2021, the hearing officer issued the *Preliminary Order* approving the application for domestic ground water rights for all 14 parcels, but denying the irrigation ground water rights on the basis that the Applications were against local public interest. *Id.*, at 13.

ISSUES ON APPEAL

1. Did the hearing officer improperly create new policy for the Department by relying on the Idaho Land Use Planning Act, Idaho Code § 67-6537, as a factor for local public interest when, on its face, the statute does not apply to this development?
2. Did the hearing officer err by failing to consider that OMM has other, adjacent land where its FCDC shares could be diverted?
3. Did the hearing officer err by failing to recognize that the FCDC shares were not appurtenant to the 24.8 acres identified in the Application?
4. Did the hearing officer improperly grant FCDC veto powers over the Applications under the guise of local public interest?

5. Would One More Mile LLC's application for irrigation water rights conflict with local public interest when considered under the proper IDWR's Appropriation criteria?

ARGUMENT

Idaho Code delineates the situations in which an application for water rights may be rejected:

> In all applications whether protested or not protested, where the proposed use is such: (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest as defined in section 42-202B, Idaho Code, or (f) that it is contrary to conservation of water resources within the state of Idaho... the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

Idaho Code § 42-203A(5). The applicant bears the burden of proof for elements (a) through (d), while both parties bear the burden of coming forth with evidence about any factor that will affect the local public interest, with the applicant bearing the ultimate burden of persuasion for all of the elements of I.C. § 42-203A(5). *See also* IDAPA 37.03.08.040.04.

The hearing officer found that EG has met its burden for elements (a) through (d). *See Preliminary Order*, at 7-9. Additionally, as to element (f), the hearing officer found that EG's application is "not inconsistent with the conservation of water resources in Idaho." *Id.*, at 14. The primary issue, and the dispositive reason for the hearing officer's partial denial[1] of the Applications is element (e), that EG's proposal for groundwater irrigation will conflict with the local public interest.

[1] *Preliminary Order* approves EG's application for domestic water rights on all 14 parcels of land, stating that "the domestic portion of the Applications, including up to ½ acre of irrigation, is not inconsistent with the local public interest and is approved." *Preliminary Order*, at 13.

I. The hearing officer improperly relied on I.C. § 67-6537 in creating a new policy and in finding a conflict with local public interest.

Local public interest is "defined as the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." Idaho Code § 42-202B(3). Rule 45.01.e of Idaho Department of Water's Appropriation Rules ("Appropriation Rules") sets forth the criteria for determining whether an application will conflict with local public interest. IDAPA 37.03.08.045.01.e. Despite citing to Rule 45.01, the hearing officer does not evaluate OMM's application under IDWR's Water Appropriation criteria for conflicts with local public interest. Instead, the hearing officer considers the applicability of I.C. § 67-6537, part of the local land use planning code, for the analysis of local public interest.

A. *The hearing officer incorrectly applies his own public policy.*

The hearing officer argues that I.C. § 67-6537 articulates a public policy for the use of surface water for irrigation where reasonably available. Idaho Code § 67-6537(a). After reviewing that section, the hearing officer found that "Idaho Code § 67-6537 does not mandate that the Department require the use of surface water, if available to a property, when considering an application to appropriate water." *Id.*, at 11. Nonetheless, the hearing officer maintained that I.C. § 67-6537 expressed an overarching public policy of the State of Idaho to encourage the use of surface water for irrigation, and therefore appropriate as a consideration of local public interest. *Id.*

The hearing officer also concluded that "surface water is not reasonably available to EG to irrigate the proposed places of use." *Preliminary Order*, at 13 (emphasis added). The hearing officer therefore, articulates a public policy for the use of surface water when *reasonably available*, makes a finding that surface water is *not reasonably available*, and still applies that policy standard

to this matter. It is unclear how the hearing officer's policy on use of surface water is applicable to the Applications.

B. *Application of I.C. § 67-6537 in a non-land use change situation usurps legislative power*.

I.C. § 67-6537 come from the Idaho Land Use Planning Act ("LUPA"), a set of statutes created by the Idaho Legislature to apply to specific circumstances. I.C. § 67-6537 is narrowly drawn to apply strictly to land use changes under LUPA. When the legislature makes choices, agencies should not expand the lines drawn by the legislature. The land underlying the 14 parcels was platted over a hundred years ago, and were zoned agricultural in 2007, a designation that has changed. *Preliminary Order,* at 33. The present Applications do not concern a land use change. *See Id.*, at 11. Application of LUPA provisions to water appropriations is an improper expansion of Department power, contravenes the narrowly tailored statutes drawn by the Idaho Legislature, and creates new policy.

C. *I.C. § 67-6537 does not articulate public policy concerning local public interest*.

I.C. § 67-6537 does not state a public policy, it simply states that, "The intent of this section is to *encourage* the use of surface water for irrigation" in the context of land use changes. (emphasis added). LUPA lists thirteen stated purposes which would represent legislative statements of policy, none of which include or reference surface water or irrigation. *See* Idaho Code § 67-6502. A plain reading of I.C. § 67-6537 shows that if any public policy is articulated, it is to encourage the use of surface water for irrigation *when making land use changes*, and when surface water is reasonably available. The hearing officer recognized that the Applications are for water appropriation and *not* land use change, and that surface water is *not* reasonably available to EG to irrigate the 14 parcels. As such, reliance on I.C. § 67-6537 as a wide-sweeping legislative expression of public policy, applicable to water appropriation applications generally, and these

Applications specifically, is without merit.

D. *Even if I.C. § 67-6537 is applied as a principle of local public interest in this situation, the Applications would not conflict with local public interest.*

The *Preliminary Order* focuses its analysis on whether the Applications might impact the economic viability of FCDC even though no proof was offered that the Application would do so. Presumably[2], the hearing officer interpreted I.C. § 67-6537(c), "An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land," as a dictate that the economic viability of an irrigation delivery entity is a concern of local public interest. The hearing officer then narrows this issue to whether the Applications will "result in overall reduction in the use of FCDC surface water and a consequent reduction in the benefits of that use." *Preliminary Order*, at 12. There is no proof however, that the Applications will reduce the use of FCDC surface water, especially in light of OMM's ownership of other lands that its shares may be used upon.

E. *Application of I.C. § 67-6537 as a standard for local public interest to situations not covered by the statute involves creation of new policy by IDWR.*

The hearing officer concludes that, "because OMM did not demonstrate it is in the local public interest to cease using existing surface water on the proposed place of use," the Applications would be denied for irrigation purposes. *Preliminary Order*, at 13. This conclusion was reached

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[2] I.C. § 67-6537 lists three situations in which surface water will be deemed available, and for which land use changes must require the use of surface water:

> (a) A surface water right is, or reasonably can be made, appurtenant to the land;
> (b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity's distribution system is capable of delivering the water to the land; or
> (c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.

Idaho Code § 67-6537(1)(a-c). The hearing officer dismissed subsections (a) and (c), concluding "that these general benefits remain consistent with the local public interest." *Preliminary Order*, at 12.

even though the evidence presented shows there will be no detrimental impact on local water resources. *Preliminary Order*, at 13. Additionally, OMM owns other lands in FCDC service area to which it can divert water, and OMM presented evidence that it would transfer its FCDC shares used on the 14 parcels to another entity in the district; shares which are not appurtenant to those parcels. *See Preliminary Order*, Findings of Fact ¶¶ 23, 31. The hearing officer's conclusion therefore, implies that even when there is no impact on the surface water resources, an application for use of ground water, in lieu of surface water, will always conflict with local public interest, even when the surface water is no longer available on the land, and there are other available lands for delivery of surface water.

Additionally, the Land Use Planning Act sets forth rules for the entire State of Idaho. Idaho water appropriations law, including specifically the concept of local public interest, necessarily relies on a localized investigation to determine appropriateness of water management. The hydrological exigencies of a specific area limit the application of a policy as broad as put forth by the hearing officer here, i.e., that surface water is preferred for irrigation. It is likely, with an eye on the need for specific, localized information, that the Appropriation Rules focus on the impact of an appropriation, rather than the application of general maxims when granting or denying a water right application. The Appropriation Rules were designed, and adopted by the Legislature, to address these specific situations, and it is the policies and criteria contained therein which should be applied to this matter, not a suggestion borrowed from Land Use statutes and then made policy by the hearing officer.

F. *FCDC's consent to OMM's transfer of shares, or to change the lands on which it uses the shares is not relevant to local public interest.*

The hearing officer states that OMM's proposed transfer of shares to Watson, and to change the location of delivery under its shares to other lands is "a determining factor in evaluating this

aspect of local public interest." *Preliminary Order*, at 13. "In the absence of FCDC's review and consent. The hearing officer cannot conclude approving the use of ground water as a primary source of irrigation water will not adversely impact the local public interest." *Id.* With this determination, the hearing officer rests his denial on FCDC's approval or denial of OMM's proposal to transfer 14 of its shares, and to use its shares on different land that it owns. Additionally, OMM is authorized to use its shares on any land within the FCDC service area because the shares are not appurtenant to the land. Further, if the transfer of 14 shares, representing 28 acres, is approved, FCDC will end up delivering surfaced water to *more* land within its service area than it would have to the 14 parcels, which comprise only 24.8 acres. FCDC has no reason to block OMM's proposals, and the hearing officer should not rely on FCDC consent to approve the Applications. Finally, as argued above, FCDC's viability is not a relevant policy consideration for local public interest, and it is inappropriate for the hearing officer to supplement FCDC's determinations for those required under a proper consideration of local public interest.

II. EG has met its burden of persuasion that its Application is consistent with local public interest when analyzed under the IDWR factors.

The hearing officer did not analyze the IDWR Appropriation Rules for determining a conflict with local public interest, instead conflating a land use statute with local public interest. Analysis under the Appropriation Rules shows that the Application for ground water irrigation does not conflict with local public interest. The Appropriation Rules include the following factors to determine whether an application conflicts with local public interest:

i. The effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both

short and long term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains;

ii. The effect the project will have on recreation, fish and wildlife resources in the local area affected by the proposed use; and

iii. An application which the Director determines will conflict with the local public interest will be denied unless the Director determines that an over-riding state or national need exists for the project or that the project can be approved with conditions to resolve the conflict with the local public interest.

IDAPA 37.03.08.045.01.e (i-iii). The hearing officer further identifies, but does not discuss, legislative factors for the current definition of "local public interest," such as—all locally important factors affecting the public water resources like: fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation, navigation, water quality, and the effect of such use on the availability of water for alternative uses of water that might be made within a reasonable time. *See Preliminary Order*, at fn. 4.

Factor one of Appropriation Rule 45.01e looks at the effect on the economy of the local area. The hearing officer determined that the 14 parcels in question do not require any additional approval from Canyon County before they are sold. *Preliminary Order*, at 8. Additionally, EG presented evidence that "the road, power, telephone, and other utility infrastructure is already in place for development of the parcels." *Id.* Finally, if the Applications are approved, there is a high probability that "the parcels will be sold and the proposed water use will be developed." *Id.* Such residential use will also increase Canyon County tax revenues. *Preliminary Order*, Findings of Fact ¶ 9. Given the immediate possibility for the sale and development of the 14 parcels, any effect on the economy of the local area will be positive in that it will develop land, create jobs for the construction and development upon the parcels, and contribute to the overall local economy by way of

increased population to patron local businesses. Factor one, and the evidence presented and facts determined by the hearing officer, supports a finding that the Applications are consistent with local public interest.

Factor two of Appropriation Rule 45.01e, along with much of the legislative intent factors cited by the hearing officer, concern the impacts of a project application on local recreation, environment, and wildlife resources. No evidence was produced showing any adverse impact on water use, the environment, or for recreational purposes. The hearing officer also determined that the Applications' proposal for irrigation is "consistent with the Department standards of efficiency for irrigation of small (< 5 acre) parcels." *Preliminary Order*, at 13. As such, the Application will have minimal, if any, impact on local recreation, the local environment, or to local wildlife resources; no one contends otherwise. Additionally, as the Applications are for ground water appropriation, they will not be diverting water from natural or recreational areas, therefore having no impact to any such area. Factor two, and the evidence presented and facts determined by the hearing officer, supports a finding that the Applications are consistent with local public interest.

Finally, EG has presented testimony that ground water irrigation is a more convenient and practical means of developing water on the parcels, and that "the quality of the surface water (silt, seed, and pesticide content), may not be compatible with the desires of the residents or the types of irrigation systems likely to be used." *Preliminary Order*, at 10. One of the legislative intent elements considers water quality, and here, the water quality would be better from ground water wells, rather than from surface water. Additionally, ground water use will reduce runoff of silty surface water to the river,

increasing water quality, and providing environmental benefits. These considerations mitigate in favor of finding the Applications *support* local public interest.

When analyzed through the proper IDWR Appropriation factors, the Applications not only are consistent with local public interest, but present an opportunity to benefit local public interests concerning the local economy, and the efficient and practical development of lands. The hearing officer determined that EG had met its burden for factors (a) through (d) of I.C. § 42-203A(5); when joined with a proper analysis of local public interest, factor (f), the Department has no grounds to deny the Applications request for ground water irrigation rights.

CONCLUSION

This matter involves the narrow issue of: when there is no land use change under LUPA, can IDWR prevent the use of ground water, relying on I.C. § 67-6537 as policy. EG contends that the Applications in this matter do not implicate I.C. § 67-6537 because no land use change is requested. As to OMM's FCDC shares, FCDC cannot require a landowner to sell his shares along with the property the shares were previously used on, because the shares are not appurtenant to the land. Additionally, OMM owns other land in the FCDC service area to which it can divert its shares. FCDC is not damaged, nor has evidence been presented to support that conclusion.

The *Preliminary Order* recognizes that EG does not have reasonable access to surface water for irrigation, and the surface water that is available is unsuitable for the uses intended for the EG's land. Nonetheless, the hearing officer denied EG's Applications for

ground water for irrigation, leaving EG without irrigation water on the 14 parcels. It is not in the local public interest to dry up land suitable for rural development.

Finally, EG's request to approve its irrigation Applications would be a narrow ruling. OMM's shares are not appurtenant to the land, and therefore, this ruling would not implicate or affect irrigation districts where water is appurtenant to the land. Further, EG is not contending that it is never in the local public interest to require use of surface water. There are times it is appropriate, such as in a big city, or when the ground water supply is over-appropriated or not suitable, but it should not be a default position when those factors are absent.

Accordingly, and based on Eden's Garden LLC's *Notice of Appeal and Petition to Review Preliminary Order* and the arguments contained herein, EG requests the Director approve the 14 Applications in their entirety, both domestic and irrigation.

DATED this 11th day of June, 2020.

Albert P. Barker
Attorney for Eden's Gate LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of June, 2021, I served a copy of the foregoing **ONE MORE MILE'S** *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order* by the method indicated below, and addressed to the following:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	_x_ Hand Delivery ____U.S. Mail ____Facsimile ____ Overnight Mail _x_ Email: nick.miller@idwr.idaho.gov
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail _x_ Email: bryce@sawtoothlaw.com

/s/ Albert P. Barker
Albert P. Barker

RECEIVED
JUN 11 2021
DEPARTMENT OF
WATER RESOURCES

RECEIVED
JUN 14 2021
WATER RESOURCES
WESTERN REGION

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Attorneys for Eden's Gate LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT No. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**NOTICE OF APPEAL AND PETITION TO REVIEW PRELIMINARY ORDER**

COMES NOW Eden's Gate LLC, by and through its attorneys of record, Barker Rosholt & Simpson LLP, pursuant to IDAPA 37.01.01.730.02(c) and hereby submits this *Notice of Appeal and Petition to Review Preliminary Order* to the Director of the Idaho Department of Water Resources. Specifically, Eden's Gate LLC challenges the hearing officer's denial, on May 28, 2021, of the Eden's Gate LLC applications for ground water irrigation rights, namely Permit to Appropriate Water No. 63-34832 through 63-34838, and 63-34840 through 63-34846. For good cause, and the reasons more fully argued in Eden's Gate LLC's *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order*, submitted concomitantly, Eden's Gate LLC requests the Director reverse the hearing officer's denial of its water right permit applications and grant its applications for water rights to 14 applications in their entirety, both domestic and irrigation.

DATED this 11th day of June, 2021.

Albert P. Barker
Attorney for Eden's Gate LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of June, 2021, I served a copy of the foregoing **ONE MORE MILE'S NOTICE OF APPEAL AND PETITION TO REVIEW PRELIMINARY ORDER** by the method indicated below, and addressed to the following:

Idaho Dept. of Water Resources
322 E Front St
Boise, Idaho 83720-0098

_x_ Hand Delivery
____ U.S. Mail
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____ Overnight Mail
_x_ Email: nick.miller@idwr.idaho.gov

S. Bryce Farris
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Attorneys for Farmers Co-Operative Ditch Company

RECEIVED
JUN 24 2021
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NOS.: 63-34840 to 63-34846 63-34832 to 63-34838 IN THE NAME OF EDEN'S GATE LLC	**PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S RESPONSE TO NOTICE OF APPEAL AND PETITION TO REVIEW PRELIMINARY ORDER**

COMES NOW Protestant, Farmers Co-Operative Ditch Company (hereinafter referred to as "Ditch Company"), and hereby responds to the *Notice of Appeal and Petition to Review Preliminary Order* filed by the Applicant, Eden's Gate LLC, on June 11, 2021.

I.
INTRODUCTION/BACKGROUND

On January 2, 2020, One More Mile, LLC ("OMM") filed 14 *Applications for Permit* to appropriate groundwater for domestic and irrigation purposes on 14 separate and different parcels located within the River Bluff Development.[1] The River Bluff Development consists of

[1] The Applications indicate that the intent was for groundwater to be the "primary" source of irrigation. *See Preliminary Order*, p. 3, item 3; Ex. 4 (Applications), p. 2, ¶ 12.

approximately 28 acres and is located within the boundaries/service area of the Ditch Company (hereinafter "River Bluff Development property" and/or "OMM property").

At the time OMM filed the Applications, OMM was a shareholder of the Ditch Company entitled to the use of the Ditch Company's existing surface water for delivery and use on the River Bluff Development property. At the time OMM filed the Applications, at the time of the hearing for this matter (and currently), the River Bluff Development property is entitled to and reasonably capable of utilizing the existing surface water of the Ditch Company to irrigate the River Bluff Development property. In fact, OMM has consistently utilized the Ditch Company's existing surface water to irrigate the River Bluff Development property and was irrigating the property at the time of the hearing and is currently irrigating the property with the Ditch Company's existing surface water rights.[2]

The Ditch Company protested the 14 Applications on the basis that OMM is an existing shareholder of the Ditch Company subject to the Articles, Bylaws and Rules and Regulations of the Ditch Company, and as an existing shareholder already has existing surface water available and capable of irrigating the River Bluff Development property. The Ditch Company did not protest the Applications to the extent they sought to divert groundwater for domestic purposes. Rather, the Ditch Company protested the proposed irrigation use of the 14 new irrigation wells being the "primary" source of irrigation because there are existing surface rights available, capable, and in fact being used, to irrigate the OMM property and if irrigation was going to be a use under the new Applications then the groundwater use must be supplemental to the existing surface water.

On June 15, 2020, a hearing was held before the Idaho Department of Water Resources ("Department") with Nick Miller as the Hearing Officer. At the time of the hearing: 1) the River

[2] *Preliminary Order*, p. 4, ¶ 22.

Bluff Development property was within the boundary/service area of the Ditch Company; 2) OMM owned 64 shares of the Ditch Company which includes shares to irrigate the River Bluff Development property with the Ditch Company's surface water; 3) OMM has been irrigating the River Bluff Development property with the Ditch Company's surface water and was irrigating sugar beets on a portion of the property during the hearing for the 2020 season; and 4) as a shareholder of the Ditch Company, OMM was subject to the Articles, Bylaws and Rules and Regulations of the Ditch Company.[3]

In order to circumvent the facts that existed at the time OMM filed the Applications and/or the facts that existed at the time of the hearing, OMM entered into a contract with another shareholder of the Ditch Company to sell a portion of OMM's shares **if** the Applications were approved. This contract was entered two weeks before the hearing, in response to the Ditch Company's protest, and as an attempt to demonstrate that shares could be potentially used by another shareholder within the Ditch Company's service area. However, there is no dispute that the transfer of shares would require the approval of the Ditch Company, had not been approved by the Ditch Company at the time of hearing, and the contract itself was contingent on the approval of the 14 Applications as being the primary source for irrigation purposes.

Realizing the transfer of shares would still require approval of the Ditch Company, that the transfer of shares would likely not be approved, and the attempt to circumvent the existence of existing surface water rights would fail, OMM then attempted to circumvent the existence of existing surface water rights by transferring the property and assigning the Applications to another entity but withholding the transfer of shares. Thus, more than a month after the hearing, on July 28, 2020, OMM submitted a *Notice of Assignment of Application* providing "notice" that OMM has

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[3] *See Preliminary Order*, pp. 4-5.

deeded the property at issue to Eden's Gate LLC and assigned all right, title and interest in the pending Applications to Eden's Gate LLC. The Ditch Company thereafter filed a response.

On May 28, 2021, the Hearing Officer issued a *Preliminary Order Partially Approving Applications* ("*Preliminary Order*"). The *Preliminary Order* approved the 14 Applications for domestic use only and denied the proposed use for irrigation purposes because, *inter alia*, OMM had existing surface water available at the time the Applications were filed and at the time of the hearing, and the use of 14 new irrigation wells on the River Bluff Development property was inconsistent with the local public interest and the conservation of water resources requirements of Idaho Code Sections 42-203(A)(5)(e) and (f).[4]

On June 11, 2021, Eden's Gate, LLC filed a *Notice of Appeal and Petition to Review Preliminary Order*. Eden's Gate did not challenge or dispute any of the facts presented at hearing or stated in the *Preliminary Order* including that the River Bluff Development property was entitled to existing surface water and said existing surface water was reasonable available for use on the property at the time of the filing of the Applications and at the time of the hearing. Instead, Eden's Gate criticizes the Hearing Officer's reliance on the policy stated in Idaho Code Section 67-6537, which is to encourage the use of surface water for irrigation, and/or the Hearing

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[4] As will be further explained below, the *Preliminary Order* does state that as a result of OMM's post-hearing assignment to Eden's Gate and the withholding of shares in an attempt to circumvent the existing use, that: "[s]urface water is not reasonably available to EG to irrigate the proposed places of use." As a result, the hearing officer did not approve the Applications for irrigation uses. In other words, the hearing officer did not approve the irrigation uses and provide a condition that said uses are "supplemental" to existing surface water rights, which is standard policy of the Department and which was initially requested by the Ditch Company as part of its protest, because there was no irrigation use for the new Applications to supplement. Whether the surface water existed, or the applicants voluntarily and intentionally removed the surface water, did not change the hearing officer's conclusion that allowing the surface water irrigation to be replaced by groundwater was contrary to the local public interest and conservation of water resources. As a result of the assignment to Eden's Gate, the end result changed from a supplemental irrigation use to no irrigation use being approved.

Officer's statement that the Ditch Company must consent to the transfer of shares and that no such consent had been provided. However, despite Eden's Gate and OMM's maneuvering and disingenuous attempts to circumvent the existence of available surface water, neither Eden's Gate or OMM have met its burden that 14 new groundwater Applications should be approved with irrigation use. The Director should affirm the Hearing Officer and conclude that irrigation should not be an approved use for these proposed Applications.

II.
ARGUMENT

A. Eden's Gate's Argument that Idaho Code Section 67-6537 is Not Applicable is Misplaced.

Throughout these proceedings, OMM (and now Eden's Gate) have misunderstood the Ditch Company's (and now the Hearing Officer's) reliance on Idaho Code Section 67-6537. To be clear, the Ditch Company's position is that OMM and now Eden's Gate are proposing to make a land use change from irrigated agriculture to 14 new residential homes on the property at issue. However, whether or not this amounts to a "land use change" under the Land Use Planning Act does not change the policy set forth to encourage the use of surface water. The "policy" remains relevant regardless of whether the changed use by OMM and Eden's Gate is a "land use change" under the Land Use Planning Act. The Department has implemented said policy by requiring the primary surface water be used regardless of whether the new ground water application involves a land use change or not.[5] In other words, the Department's conditioning of new ground water rights

[5] The hearing officer took judicial notice of several examples where supplemental irrigation conditions were approved and which included schools and other uses which did not necessarily fall under the Land Use Planning Act. *See* Exhibits 114-118.

is not based solely upon the application of Idaho Code Section 67-6537 but rather on sound policy and reasoning that existing surface water should not be replaced by new groundwater rights.[6]

Indeed, Eden's Gate spends much of its *Memorandum* arguing that the Hearing Officer incorrectly applied Idaho Code Section 67-6537, that the land use planning statute should not mandate or control in a water right application matter, and that the land use planning statute is a state-wide statute that should not govern a local interest factors. *See Eden's Gate Memorandum*, pp. 5-8. However, Eden's Gate ignores the fact that the Hearing Officer found exactly what Eden's Gate is now arguing: that the land use planning statute "**does not mandate** that the Department require the use of surface water, if available to a property, when considering an application to appropriate water." *Preliminary Order*, p. 11 (emphasis added). Yet, the Hearing Officer determined the intent of the statute to encourage the use of surface water for irrigation is appropriate to consider when evaluating an application to appropriate groundwater.

It is this policy or intent of the statute which the Department has followed, regardless of whether a "land use change" is being proposed in order to condition new ground water application by requiring the continued use of existing surface water rights as the primary source. It is consistent with this policy and intent that if a new application for groundwater falls within an irrigation district or canal company (or has some other existing surface water right) that the Department conditions the new application to utilize the existing surface water as the primary

---

[6] The bases for said policy, includes, but is not limited to, preserving aquifers and the existing groundwater supply, maintaining the economic viability of irrigation entities and maintaining the practical viability of irrigation entities (*i.e.*, if landowners or shareholders are able to voluntarily discontinue use then the cooperative nature of such entities, including carriage, flow, and other benefits are adversely impacted). The convenience of a developer simply installing a new irrigation ground water well has been and should continue to be rejected.

source, whether apportioned benefits in an irrigation district or a shareholder of a ditch company, and to "encourage the use of surface water for irrigation."[7]

OMM and Eden's Gate suggest that because the shares of the Ditch Company may not be appurtenant to the land that these policies are not applicable. However, a close reading of Idaho Code Section 67-6537 reveals that the statute, policy and intent is that there is no requirement that the water be appurtenant to the land but rather that the surface water is "reasonably available" or "**can be made**" appurtenant to the land. Idaho Code Section 67-6537 specifically provides that surface water is "reasonably available" if:

a) A surface water right is, or **reasonably can be made**, appurtenant to the land;

b) The **land is entitled to distribution of surface water** from an irrigation district, **canal company**, ditch users association, or other irrigation delivery entity, **and the entity's distribution system is capable of delivering the water to the land**; **or**

c) An irrigation district, **canal company**, or other irrigation delivery entity **has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land**.

Any of the above three situations may be applicable based upon the use of the word "or" in the statute. In this case, all three of the examples provided by the statute are applicable and the intent and policy of the statute are applicable regardless of whether OMM or Eden's Gate are

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[7] Eden's Gate makes a self-serving, disingenuous attempt to distinguish an irrigation district from a canal or ditch company as a basis to narrow the effect of any ruling which condones OMM/Eden Gate's conduct. *Memorandum*, p. 13. However, as recognized by Idaho Code Section 67-6537, by the Department's existing policy and the Department's Surface Water Condition such an argument has no merit. Whether an irrigation district, canal company or ditch company, if there is existing surface water available as the primary irrigation source then it should remain the primary source and the voluntary, intentional discontinuance of such source should not be allowed.

proposing "land use changes" within the meaning of the Land Use Planning Act. A surface water right (*i.e.*, the Ditch Company shares) are or can reasonably be made available and appurtenant to the land, the land is entitled to receive surface water and the Ditch Company's system is capable of delivering surface water to the land (indeed, the property was receiving irrigation water before, during and after the hearing). Moreover, even if the owner of the land is no longer a shareholder based upon OMM's attempt to circumvent the situation, the Ditch Company "has sufficient available surface water rights" to allocate to the land and has a distribution system capable of delivering water to the land. In other words, Eden's Gate cannot simply avoid implementation of the primary surface water right condition when there is sufficient available surface water from the Ditch Company and the Ditch Company's system is capable of delivering water to the land.

The Department should not allow an applicant to circumvent these policies at the applicant's own hand or own doing. What's next, OMM or Eden's Gate will quit paying the assessments or intentionally destroy the distribution system capable of delivering surface water to the land? Interestingly, such a maneuver has been addressed in the context of the exclusion from an irrigation district. While this matter does not involve an irrigation district, this maneuvering is analogous to a landowner's attempt to exclude from an irrigation district by purposefully or intentionally rendering the delivery system incapable of delivering water, and which has been rejected by Idaho statute. *See* Idaho Code Section 43-1102(4) (providing grounds for exclusion may not include the rendering of a delivery system incapable by the petitioner's "knowledge or consent"). In other words, a landowner may not manipulate and destroy a delivery system by one's own hand or consent and then use that as a basis for exclusion. Similarly, an existing shareholder, entitled to receive water through a system capable of delivering water to the land should not be allowed to circumvent and manipulate the ownership of the land, or take other intentional actions

to withhold the transfer of shares, simply to avoid the sound policies of the Department to encourage the continued use of surface water.

In fact, the Department's standard condition for new groundwater rights being supplemental to existing surface water rights also contemplates a right holder attempting to intentionally discontinuing use of the primary surface water right and such condition prohibits such actions. A recent condition used by the Department concerning a supplemental groundwater right provides the following:

> The primary irrigation water for the place of use authorized under this right is surface water. The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert water under this right to irrigate land with appurtenant primary surface water rights when the primary surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for the irrigation delivery entity. The right holder shall not divert water for irrigation purposes under this right if use of the primary surface water rights **is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.**

This condition or some variation has been included on new applications for groundwater within the boundaries of irrigation districts and canal companies (hereinafter sometimes referred to as the "Department's Surface Water Condition").[8] As indicated, the Department's Surface Water Condition prohibits the right holder from intentionally discontinuing the use of the existing surface water which is available. This is to prevent the very scheme OMM and Eden's Gate have attempted to employ by contracting to sell the shares and/or assigning the property and Applications without transferring the shares.

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[8] *See generally* Exhibits 114-118 for a small sample of new applications which include some variation of the Department's Surface Water Condition.

The facts remain the same that the lands, whether owned by OMM or Eden's Gate, are entitled to the use of an existing surface water right, the land is entitled to distribution of surface water from the Ditch Company, and the Ditch Company's distribution system is capable of delivering water to the land. The Department should reject the Applicant's attempt to circumvent these facts by now transferring the land and applications to another entity simply to avoid the use of "reasonably available" surface water. This type of manipulation should not be encouraged by the Department but rather should be rejected in order to prevent further manipulation by these applicants and future applicants.

B. The Notice of Assignment does not Change the Existence of Surface Water Being Available.

In an obvious attempt to elevate form over substance, to circumvent the Articles, Bylaws and Resolutions of the Ditch Company, and avoid use of existing surface water rights, OMM has deeded the property at issue to Eden's Gate without attempting to transfer any shares to the "new" owner. In other words, OMM and Eden's Gate are attempting post-hearing to manufacture an after-the-fact situation in which the applicant is no longer a shareholder of the Ditch Company and thus should not be required to utilize existing surface water rights. This disingenuous maneuver should be rejected because the surface water remains reasonably available and the Ditch Company's distribution system remains capable of delivering surface water to the land. Indeed, OMM's maneuver occurred at the same time it was using the Ditch Company's water on the property at issue for irrigation purposes. The testimony at the hearing was clear that the property at issue is capable of receiving irrigation water from the Ditch Company and the property is in fact using the water of the Ditch Company for the 2020 irrigation season.

It was undisputed at the hearing that OMM remains subject to Articles, Bylaws and Rules and Resolutions of the Ditch Company,[9] including, but not limited to, provisions in the Bylaws requiring the consent of the Ditch Company to transfer shares,[10] provisions in the Bylaws relating to the subdivision of land and the requirement to install a distribution system[11], and the rules and regulations of the Ditch Company[12] The rules and regulations include rules relating to the subdividing of lands and establishing a lateral association to hold shares[13] and rules specifically requiring a shareholder to use surface water when available prior to the use of groundwater for irrigation purposes.[14] This final resolution, adopted by the Board of the Ditch Company on March 11, 2020, summarizes the Ditch Company's position as to new groundwater applications for irrigation use such as those filed by OMM. The contrived scheme of OMM and Eden's Gate attempts to avoid the application of said Articles, Bylaws and Rules and Regulations of the Ditch Company but, as the Hearing Officer correctly determined, the Ditch Company's role and interest are factors to be considered. Again, at the time the Applications were filed and at the time of the hearing, the Applicant, OMM, was an existing shareholder entitled to use surface water and was using surface water on the property in question.

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[9] *Preliminary Order*, pg. 4, ¶ 24.

[10] *Preliminary Order*, pg. 5, ¶ 26.

[11] *Preliminary Order*, pg. 5, ¶ 27.

[12] *Preliminary Order*, pg. 4, ¶ 25.

[13] *Preliminary Order*, pg. 5, ¶ 29.

[14] *Preliminary Order*, pg. 5, ¶ 30.

C. OMM/Eden's Gate are Voluntarily Withholding Surface Water and thus the Hearing Officer's Preliminary Order Correctly Denied the Irrigation Use.

OMM's transfer of the property to Eden's Gate and intentional withholding the shares after the fact does not and should not change the fact that surface water has been and continues to be reasonably available. Eden's Gate suggests that the Hearing Officer's statement that "surface water is not reasonably available to EG to irrigate the proposed place of use" is unclear or inconsistent. However, Eden's Gate misses the point again as the Hearing Officer is still determining that surface water is reasonably available, that the Department cannot approve the new Applications with the primary use for irrigation being groundwater, and thus if OMM and Eden's Gate choose to voluntarily withhold shares and remove the existing and available surface water then the Department will only approve the Applications for domestic purposes.

In other words, while OMM was the applicant and an existing shareholder of the Ditch Company, the Ditch Company's position has been (and as confirmed in its Resolution dated March 11, 2020)[15] that the Applications may be approved for irrigation use so long as there is the Department's Surface Water Condition providing that the groundwater use is supplemental to the existing surface water rights. Had OMM not assigned the Applications to Eden's Gate, and had OMM not voluntarily and intentionally withheld the reasonably available surface water, then the Hearing Officer would have likely approved the Applications for both domestic and irrigation purposes but would have included the Department's Surface Water Condition to ensure that the primary surface water right remained the primary source for irrigation use and the new groundwater rights were supplemental. Again, the Department's Surface Water Condition includes provisions which prevent the right holder from voluntarily or intentionally discontinuing

[15] *See Preliminary Order*, p. 5, ¶ 30, and Exhibits 28 and 103.

use of the primary surface water right and this should not change because the applicant voluntarily and intentionally discontinues use prior to the Applications being approved.[16]

Since OMM and Eden's Gate came up with a contrived scheme to withhold the primary surface water right which is reasonably available and being used on the property prior to the issuance of the *Preliminary Order*, the Hearing Officer denied the irrigation use altogether. This result is clear and consistent with the Hearing Officer's analysis that the intent and policy is to encourage the continued use of surface water and to condition new groundwater applications to require the continued use of surface water as the primary source. If Eden's Gate voluntarily and intentionally withholds the surface water or discontinues its use then the Department should not reward such actions but rather should not approve (as the *Preliminary Order* does) the proposed irrigation use from groundwater. The Hearing Officer correctly, consistently and clearly applied the Department's policies and conditions to the facts that Eden's Gate presented.

III.
CONCLUSION

For the above-stated reasons and for reasons previously set forth at hearing for this matter, the Ditch Company respectfully requests that the Director affirm the Hearing Officer's conclusion that the Application's shall be limited to domestic uses only. At the time the Applications were

---

[16] It is axiomatic that if the Department's standard process and policy is to condition a new groundwater application for irrigation use within an irrigation district or canal company with the Department's Surface Water Condition, and the Department's Surface Water Condition specifically prevents the right holder from intentionally or voluntarily discontinuing the use of the primary surface water right, that the Department should also not allow an applicant to intentionally or voluntarily discontinue the use of the primary surface water right before the application is approved. In other words, if the terms of the condition are applicable and appropriate after the permit is approved then the terms should also be applicable and appropriate before the permit is approved. The Department should not and cannot allow applicants to avoid using existing surface water by intentionally or voluntarily taking actions or steps to discontinue the use of the primary surface water right regardless of whether the actions or steps were prior to the applications being approved or after the applications are approved.

filed, at the time of hearing and currently there is available surface water for the irrigation of the development. Based upon such availability the Hearing Officer correctly applied the intent and policy to encourage the continued use of surface water. If OMM and/or Eden's Gate want to intentionally and voluntarily discontinue the use of available surface water by withholding shares of the Ditch Company then such actions should not be rewarded. Instead, as the Hearing Officer correctly determined, the Applications should only be approved for domestic purposes, and the Director should uphold the Hearing Officer's *Preliminary Order*.

DATED this 24th day of June, 2021.

SAWTOOTH LAW OFFICES, PLLC

By _____
S. Bryce Farris
Attorneys for the Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of June, 2021, I caused a true and correct copy of the foregoing **PROTESTANT FARMERS CO-OPERATIVE DITCH COMPANY'S RESPONSE TO NOTICE OF ASSIGNMENT OF APPLICATINS** to be served by the method indicated below, and addressed to the following:

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July 1, 2021

Idaho Department of Water Resources
322 E. Front Street, Suite 648
Boise, ID 83702-7371

Re: Eden's Gate LLC

Dear Clerk,

Enclosed please find Eden's Gate LLC Reply in Support of the Notice of Appeal for filing.

Kindly return the conformed copy in the self-address stamped envelope.

Thank you.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

Ailen Evaniuck
Legal Assistant

Enc. a/s

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WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT No. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**REPLY IN SUPPORT OF NOTICE OF APPEAL AND PETITION TO REVIEW PRELIMINARY ORDER**

This appeal arises from a Preliminary Order of the hearing officer in the above-captioned matter, wherein the hearing officer denied approval for water appropriation applications to drill and irrigate from fourteen (14) ground water wells on the same number of small parcels of land located in the western portion of Water Basin 63 near the Boise River ("Applications"). On June 11, 2021, Eden's Gate, LLC ("EG") filed its *Notice of Appeal and Petition to Review Preliminary Order*, along with its memorandum in support (together, "*Notice of Appeal*"), appealing, *inter alia*, the denial of their water right applications for ground irrigation water. On June 24, 2021, Farmers Co-operative Ditch Company ("FCDC") filed its response to *Notice of Appeal*. This reply is in response to the FCDC, and in support of EG's *Notice of Appeal*.

A. **Idaho Code § 67-6537 Does Not Establish a Policy Concern for "Local Public Interest" as it Relates to Applications for Water Appropriation.**

FCDC initially protested the Applications by insisting that EG was required to use their pre-existing surface water shares with the FCDC, and was therefore, prohibited from using ground water for irrigation. The hearing officer, in his *Preliminary Order Partially Approving Applications* ("*Preliminary Order*") on May 28, 2021, issued the permits, but limited the rights to domestic use only, and denied the application for irrigation use. The denial of the Application's irrigation rights was based solely on FCDC's objection to allowing ground water use in its service area, and the erroneous conclusion that FCDC's objection was the determining factor in finding the Applications were inconsistent with "local public interest."

1) *EG's Applications Do Not Request a Land Use Change so as to Trigger or Implicate the Idaho Land Use Planning Act.*

As discussed more fully in EG's *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order* ("*Appeal Memo*"), the hearing officer relied on a statute, not from Idaho's water appropriation statutes, but from the Idaho Land Use Planning Act ("LUPA"); specifically, the hearing officer relies on Idaho Code § 67-6537 as a controlling factor in determining "local public interest."

It is important, for the purposes of this appeal, that the hearing officer determined there is sufficient ground water supply, and the FCDC does not dispute this fact. This is not a situation where the ground water is unavailable or stressed. To the contrary, ground water is abundant. The other critical fact is that the land where the Applications were filed was subdivided over a century ago, and no contemporaneous land use change has been proposed with the Applications—there is no dispute that the Applications do not implicate change in land usage as that term is used LUPA. The FCDC contends that the statute applies to "applicants proposing to make land use changes."

Idaho Code § 67-6537. The "applicant" under this statute however, envisions a person seeking zoning changes, subdivisions, variances, special use permits or other application under LUPA. Idaho Code § 67-6521(1)(d); *see Arnold v. City of Stanley,* 162 Idaho 115 (2017). There is no dispute that this case does not involve an application under the Land Use Planning Act. Even though there is no change in land use triggering the requirements of Idaho Code § 67-6537 under LUPA, the FCDC and the hearing officer, insist that the LUPA creates a "policy" that applies and absolutely forbids the IDWR from issuing new water rights, even though Idaho Code § 67-6537, and LUPA in general, is not triggered.

FCDC insists that Idaho Code § 67-6537 applies even though the FCDC's water rights are not appurtenant to the land and there is no change in land use as defined by LUPA, even though Idaho Code § 67-6537 does not apply to actions by the IDWR. The FCDC attempts to take a narrowly crafted statute created by the legislature, applicable to a very specific set of circumstances involving land use changes, and extend that statute to circumstances for which it simply does not apply. FCDC argues that the statute creates a policy that is somehow broader than the statute itself. In other words, FCDC is asking the Department to re-write the statute so that it would be applied in all circumstances as a "local public interest" factor for disapproval of any water appropriation application. This is especially troublesome given the existence of specific policy considerations contained in Idaho's water appropriation statutes, and IDAPA regulations, specifically promulgated to address what constitutes "local public interest" when approving or denying a water appropriation application. *See* I.C. §42-203A(5); IDAPA 37.03.08.045.01.e.

2) *Idaho Water Appropriations Law and Regulation Properly Provides Policy Considerations for "Local Public Interest."*

Idaho Code delineates the situations in which an application for water rights may be rejected, relevant to the Application denial is factor (e), "that [the proposed use] will conflict with

the local public interest as defined in section 42-202B, Idaho Code." I.C. § 42-203A(5). "Local public interest is defined as the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." I.C. § 42-202B(3). Additional factors used to determine or define "local public interest" are provided in the Idaho Department of Water Resources Appropriation Rules ("Appropriation Rules"):

> i. The effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both short and long term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains;
>
> ii. The effect the project will have on recreation, fish and wildlife resources in the local area affected by the proposed use; and
>
> iii. An application which the Director determines will conflict with the local public interest will be denied unless the Director determines that an over-riding state or national need exists for the project or that the project can be approved with conditions to resolve the conflict with the local public interest.

IDAPA 37.03.08.045.01.e (i-iii). In the context of these Applications for water appropriation, the appropriate definitions and factors for consideration of "local public interest" are those statutes adopted by the legislature and those rules promulgated by Idaho Department of Water Resources ("IDWR") specifically within the context of water appropriation. EG has met its burden of persuasion that its Applications are consistent with local public interest when analyzed under the proper IDWR factors. *See Appeal Memo*, pp. 9-12. Specifically, the Applications will not have a negative effect on the economy of the local area and may instead have a positive impact on the local economy, the Applications will not have a negative impact on recreation, nor will the Applications have a negative effect on local fish and wildlife. *See* IDAPA 37.03.08.045.01.e (i-ii). As such, EG's Applications for ground irrigation rights should be approved.

Further, FCDC does not even attempt to defend the position of the hearing officer, which defers to FCDC, the right to determine whether or not a particular use of water is in the local public interest; the hearing officer takes FCDC's opposition to the Application as sufficient evidence that the Application are inconsistent with "local public policy." Neither FCDC nor the hearing officer even assert that these Applications are not in the local public interest, as that term is defined by the elements of local public interest, *see* IDAPA37.03.08.045.01.e (i-ii), and under Idaho water appropriation statutes.

B. EG's Transfer of its FCDC Shares is Irrelevant as to its Application for Water Appropriation

FCDC's water rights are not appurtenant to the parcel of land owned by EG, and the rights were not appurtenant to the parcel of land when the land was held by One More Mile, LLC ("OMM"). While water had been used on the land in the past by OMM, OMM has other land in the FCDC's boundaries where it could use its FCDC shares to irrigate that land. FCDC cites conditions that are included in other water rights approved by the Department, but of none of those approvals are apt here. All of those conditions were either agreed to by the applicant or were specifically required as part of a land use change under Idaho Code § 67-6537, or both. Simply put, FCDC's contention that OMM transferred its land and the Applications to EG has no bearing on the operative consideration for the approval of the Applications, i.e., are they consistent with Idaho's water appropriation's doctrine concerning "local public interest."

C. Conclusion

The Hearing Officer's decision grants FCDC virtually unlimited authority over private land use and water rights inconsistent with the requirements of Idaho water appropriations law. By an administrative fiat, the hearing officer has created a new public policy by misapplying land use planning statutes to water appropriation standards. When considered under the proper, water

appropriation framework, the Applications satisfy all requirements for approval and are consistent with the local public interest. Additionally, the hearing officer found that "surface water is not reasonably available to EG to irrigate the proposed places of use." *Preliminary Order*, at 13 (emphasis added). Without reasonably available irrigation water, approval of EG's Applications is necessary for the development and use of EG's land. As such, and for the other arguments made herein and in EG's *Appeal Memo*, the hearing officer's *Preliminary Order* should be reversed and the Applications should be approved for the irrigation use as to all fourteen applications for ground water irrigation.

DATED this 1st day of July, 2021.

/s/ Albert P. Barker
Albert P. Barker
Attorney for Eden's Gate LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of June, 2021, I served a copy of the foregoing **ONE MORE MILE'S** *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order* by the method indicated below, and addressed to the following:

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BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT No. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**AMENDED CERTIFICATE OF SERVICE**

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of July, 2021, I served a copy of the foregoing **ONE MORE MILE'S** *Reply in Support of Notice of Appeal and Petition to Review Preliminary Order* by the method indicated below, and addressed to the following:

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Albert P. Barker

Miller, Nick

From: Ailen Evaniuck <aje@idahowaters.com>
Sent: Wednesday, July 14, 2021 2:01 PM
To: Miller, Nick; 'Bryce Farris'
Cc: Barker, Albert (IWRB Member); Michael A. Short
Subject: Eden's Gate LLC Reply Certificate of Service
Attachments: Amended Certificate of Service.pdf

Gentlemen:

Attached please find Eden's Gate LLC's Amended Certificate of Service on the Reply in Support of the Notice of Appeal.

Sincerely,

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July 14, 2021

Idaho Department of Water Resources
322 E. Front Street, Suite 648
Boise, ID 83702-7371

Re: Amended Certificate of Service re: 63-34832 thru 63-34838 and 63-34840 thru 63-34846

Dear Clerk,

Enclosed please find an Amended Certificate of Service on the above matter. Kindly return the conformed copy to us in the enclosed stamped envelope.

If you have any other question or concern, please do not hesitate to let us know.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

Ailen Evaniuck
Legal Assistant

Enc. a/s

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NO. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**ORDER EXTENDING DEADLINE TO ISSUE FINAL ORDER**

BACKGROUND

On May 28, 2021, hearing officer Nick Miller issued his *Preliminary Order Partially Approving Applications* ("Preliminary Order") in this matter. On June 11, 2021, Eden's Gate LLC filed its *Notice of Appeal and Petition to Review Preliminary Order* and *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order* ("Exceptions"). On June 24, 2021, Farmers Co-Operative Ditch Company (FCDC) filed *Protestant Farmers Co-Operative Ditch Company's Response to Notice of Appeal and Petition to Review Preliminary Order* ("FCDC's Response").

ANALYSIS

The Department's Rules of Procedure require the Director to "issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument [(regarding exceptions to a preliminary order)], whichever is later, unless waived by the parties or for good cause shown." IDAPA 37.01.01.730.02.d. FCDC's Response, filed June 24, 2021, was the last written brief regarding the Exceptions.[1] Therefore, the Director is required to issue a final order by August 19, 2021, unless "good cause" is shown to extend the deadline. *Id.*

Good cause exists to extend the deadline for the Director to issue a final order. The Exceptions raise important legal and policy issues that require careful consideration and extensive legal research and analysis of the record. Additional time is needed to conduct the necessary research and conduct an exhaustive evaluation of the issues prior to issuance of a final order. The Director will extend the deadline for issuing a final order to October 14, 2021.

ORDER

IT IS HEREBY ORDERED that the deadline for the Director to issue a final order is EXTENDED to October 14, 2021.

Dated this 18 day of August 2021.

FOR

Gary Spackman
Director

[1] On July 6, 2021, Eden's Gate LLC filed its *Reply in Support of Notice of Appeal and Petition to Review Preliminary Order* ("EG's Reply"). The Rules of Procedure of the Idaho Department of Water Resources do not allow replies to responses to exceptions. IDAPA 37.01.01.730.02.c. Therefore, EG's Reply will not be considered on exceptions.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August 2021, I served a true and correct copy of the Order Extending Deadline to Issue Final Order to the following parties via U.S. Mail and by email:

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	ORDER ON EXCEPTIONS; FINAL ORDER PARTIALLY APPROVING APPLICATIONS

BACKGROUND

On January 2, 2020, One More Mile, LLC ("OMM"), filed *Applications for Permit to Appropriate Water Nos. 63-34832 through 63-34838, and 63-34840 through 63-34846* ("Applications") with the Idaho Department of Water Resources ("Department" or "IDWR"). The Department published notice of the Applications in the Idaho Press-Tribune on January 16 and January 23, 2020. Farmers Co-Operative Ditch Company ("FCDC") timely protested each of the Applications.

On March 19, 2020, the Department held a pre-hearing conference. OMM and FCDC were unable to resolve the protested issues and requested a hearing to decide the contested cases. On April 6, 2020, the Department's hearing officer issued the *Order Consolidating Matters for Hearing, Notice of Hearing, and Scheduling Order* ("Consolidation Order") consolidating the Applications for hearing and establishing a hearing schedule.

An administrative hearing was held on June 15, 2020, at the Department's Boise office. Attorney Albert Barker represented OMM, and Attorney Bryce Farris represented FCDC.

The hearing officer admitted exhibits offered by OMM and FCDC into the record.[1] Pursuant to IDAPA 37.01.01.602, the hearing officer also took official notice of the Applications and associated Department documents identified in the Consolidation Order, including past orders and decisions, reports, measurements, stream flow records, and well driller reports. Craig Froerer (OMM member), Alan Mills and Matt Wilke (Mills & Co. Realty, Inc.), Lori Graves (SPF Water Engineering, LLC), Tom Johnston (FCDC Board Member), and Rod Nielson (FCDC President) testified at hearing.

After the hearing, on July 28, 2020, OMM filed a *Notice of Assignment of Application* ("Notice of Assignment") and submitted the appropriate Department *Assignment of Application for Permit* ("Assignment") form assigning the 14 applications to Eden's Gate LLC ("EG"). The Assignment conveyed the Applications' proposed points of diversion and underlying places of use—14 two-acre parcels—from OMM to EG. OMM did not, however, assign any of the 64 shares of FCDC capital stock it owns (which authorize the irrigation of 128 acres, in FCDC's service area). Exhibit 10; Testimony of Tom Johnston.

[1] The following exhibits were admitted into the record: 1-11, 13-14, 16, 19, 24, 26, 28, 29, 103, 105, 107, 109, 112-118, and 121.

Evidently because of issues raised at hearing and because the Assignment occurred after the hearing, but before issuance of a preliminary order, OMM included legal argument in the Notice of Assignment. OMM argued: (1) the Assignment was not completed for speculative purposes; (2) because the FCDC shares are not appurtenant to the conveyed lands, and EG is not an FCDC shareholder, EG is not subject to FCDC's Articles, Bylaws, or Resolutions; (3) FCDC cannot prevent the conveyance of the parcels without the FCDC shares; and (4) the Assignment is not subject to Idaho Code § 67-6537, because no land use change was proposed under Idaho's Land Use Planning Act.[2] *Notice of Assignment* at 1–2. Along with the Notice of Assignment and Assignment, OMM filed the *Declaration of Madison Richards* ("EG Declaration"). Madison Richards is an original governor of EG. *EG Declaration* at 1. The EG Declaration states EG's intent to sell the 14 lots with the prospective permits sought by the applications, instead of any FCDC shares or other water rights. *EG Declaration* at 1.

On July 28, 2020, FCDC filed *Protestant Farmers Co-Operative Ditch Company's Response to Notice of Assignment of Applications* ("FCDC Objection to Assignment"). FCDC argued the Assignment is an attempt "to manufacture an after-the-fact situation in which the applicant is no longer a shareholder of the Ditch Company and thus should not be required to utilize existing surface water rights." *FCDC Objection to Assignment* at 2. FCDC argued the Assignment was a disingenuous attempt to avoid using surface water that is still reasonably available, as evidenced by the fact FCDC surface water was used to irrigate the parcels during the 2020 irrigation season. *Id.*

On July 29, 2020, OMM filed *One More Mile LLC's Response to Farmer's Co-Op's Objection to Notice of Assignment of Application for Permit* ("OMM Response to FCDC Objection"). OMM argued: (1) Idaho Code § 67-6537 is inapplicable here because no land use change is proposed, and expanding the policy of the statute beyond its terms is not supported by the statutory language or legislative intent; and (2) FCDC does not represent an irrigation district, instead "FCDC was created so that its water rights are not appurtenant to the individual land and . . . property could be transferred without company shares and without any involvement by FCDC." *OMM Response to FCDC Objection* at 3.

On May 28, 2021, the hearing officer issued his *Preliminary Order Partially Approving Applications* ("Preliminary Order"). The hearing officer considered the effect of the Assignment on the Applications in the Preliminary Order.

On June 11, 2021, Eden's Gate filed its *Notice of Appeal and Petition to Review Preliminary Order* accompanied by a *Memorandum in Support of Notice of Appeal and Petition to Review Preliminary Order* ("EG Exceptions").

[2] Idaho Code § 67-6537 is defined, in relevant part, infra at 5.

On June 24, 2021, FCDC filed *Protestant Farmers Co-Operative Ditch Company's Response to Notice of Appeal and Petition to Review Preliminary Order* ("FCDC Exceptions Response").[3]

The controversies represented in OMM's Notice of Assignment, the FCDC Objection to Assignment, and the OMM Response to FCDC Objection, were included in the parties' exceptions and responses thereto. The effect of the assignment and the substance of these issues will be addressed by the Director in the analysis on exceptions below.

THE EXCEPTIONS

The Applications propose diversion of ground water for domestic and irrigation purposes on 14 separate two-acre parcels located in the River Bluff Development near Fruitland, Idaho. Exhibit 4 at 4. The Preliminary Order partially approved the Applications, denying only the ground water irrigation use proposed in the Applications as not in the local public interest.[4] *Preliminary Order* at 13.

The hearing officer concluded the main local public interest issue was "whether it is inconsistent with the local public interest to cease using surface water to irrigate the parcels and instead use groundwater as the sole source of irrigation water." *Id.* at 10. In this case, the hearing officer concluded the local public interest of maintaining surface water irrigation outweighed the proposed transition to new ground water irrigation. *Id.* at 12. The hearing officer also concluded approving a change from surface to ground water irrigation may have a negative effect on the viability of FCDC, and FCDC should be able to review and consent to the removal of the use of its surface water. *Id.* at 13.

EG's Exceptions relate solely to the partial denial of using ground water for irrigation on the parcels. *EG Exceptions* at 1–2. EG's Exceptions argue the hearing officer improperly conducted the local public interest inquiry: (1) by misapplying the Idaho Legislature's stated land use change policy as it relates to the use of surface versus ground water; (2) by not applying the proper local public interest standard (as defined by IDAPA 37.03.08.045.01.e.i-iii); and (3) because EG no longer has reasonable access to surface water for irrigation, "it is not in the local public interest to dry up land suitable for rural development." *EG Exceptions* at 12-13.

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[3] On July 6, 2021, Eden's Gate LLC filed its *Reply in Support of Notice of Appeal and Petition to Review Preliminary Order* ("Eden's Gate Reply"). The Rules of Procedure of the Idaho Department of Water Resources (IDAPA 37.01.01) do not allow for replies to responses to exceptions. Eden's Gate Reply is not considered here.

[4] The Preliminary Order did, however, approve up to one-half (½) acre of *domestic* groundwater irrigation for each parcel, as consistent with the local public interest. *See* Idaho Code § 42-111(1)(a) (domestic use includes the irrigation of up to one-half acre of land, if the total use is not more than 13,000 gallons per day).

The Local Public Interest

For purposes of water appropriation in Idaho, the local public interest is defined as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." Idaho Code § 42-202B(3).

The legislative intent for HB 284, the 2003 bill that enacted the current definition, states:

> [IDWR's] role under the "local public interest" is to ensure that proposed water uses are consistent with securing "the greatest possible benefit from [the public waters] for the public." Thus, within the confines of this legislation, Water Resources should consider all locally important factors affecting the public water resources, including but not limited to fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation, navigation, water quality and the effect of such use on the availability of water for alternative uses of water that might be made within a reasonable time.

H.B. 284, 57th Legis., 1st Reg. Sess. (Idaho 2003) (Statement of Purpose). Idaho Code § 42-203A "places upon the Director [of the Department] the affirmative duty to assess and protect the public interest." *Shokal v. Dunn*, 109 Idaho 330, 337, 707 P.2d 442, 448 (1985). "The relevant elements [of the local public interest] and their relative weights will vary with local needs, circumstances, and interests." *Dunn*, 209 Idaho at 339, 707 P.2d at 450. "The determination of what elements of the public interest are impacted, and what the public interest requires, is committed to [the Department's] sound discretion." *Id.*[5]

The Director has the authority and discretion to determine: (1) an application's local public interest factors and their relative impacts, and what the local public interest requires; and (2) the reasonableness of a diversion or use. *See American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Resources*, 143 Idaho 862, 880, 154 P.3d 433, 451 ("[B]etween the absolute right to use a decreed water right and an obligation not to waste it and to protect the public's interest in this valuable commodity, lies an area for the exercise of discretion by the Director.")

The burden of coming forward with evidence to evaluate local public interest factors is shared by both the protestant and applicant. The applicant must come forward with evidence as to any factor affecting the local public interest of which he is knowledgeable or reasonably can be expected to be knowledgeable, and the protestant must come forward with evidence as to any factor of which the protestant can reasonably be expected to be more cognizant than the applicant. *See* IDAPA 37.03.08.040.04. The applicant bears the ultimate burden of persuasion for all of the elements in Idaho Code § 42-203A(5), including the local public interest element. *Id.*

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[5] While the Department's Water Appropriation Rules (*see* IDAPA 37.03.08.045.01.e.i-iii) include local public interest criteria, the definition of local public interest was significantly narrowed by the Idaho Legislature in 2003. The Water Appropriation Rules have not been updated to reflect the 2003 legislative amendments. Therefore, the Director will not specifically address the factors at IDAPA 37.03.08.045.e.i-iii. *See also* Robert L. Harris, *Narrowing the Local Public Interest Criterion in Idaho Water Right Transfers*, 39 IDAHO LAW REV. 713 (2003).

The Use of Surface versus Ground Water and the Local Public Interest

EG argues the Preliminary Order improperly created new policy for the Department by relying on Idaho Code § 67-6537 as policy when, on its face, the statute applies to land use changes. *EG Exceptions* at 5. Idaho Code § 67-6537 states, in relevant part:

> (1) The intent of this section is to encourage the use of surface water for irrigation. All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation. Surface water shall be deemed reasonably available if:
>
> (a) A surface water right is, or reasonably can be made, appurtenant to the land;
> (b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity's distribution system is capable of delivering the water to the land; or
> (c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.

Idaho Code § 67-6537 is part of Idaho's Land Use Planning Act ("LUPA") and expresses the legislative intent to require the use of surface water, "where reasonably available," as the primary source of irrigation in all applications for land use changes. The hearing officer concluded that, while not binding on water appropriation applications, the legislative intent to use surface water for irrigation in land use changes may be considered as an evaluative factor in the local public interest inquiry. *Preliminary Order* at 11.

EG argues the hearing officer created a per se conflict by including LUPA's stated intent as a local public interest factor. *EG Exceptions* at 8. EG argues the result of the hearing officer's conclusion is that any application for use of ground water that will replace surface water will always conflict with the local public interest. *Id.* EG argues this forced preference for surface water remains even in its case, where surface water is no longer available, or the previously available surface water can be used elsewhere. *Id.*

FCDC, on the other hand, argues IDWR should consider the policy expressed by the Legislature in Idaho Code § 67-6537 when reviewing an application to appropriate water. *FCDC Response* at 4. FCDC argues that regardless of Idaho Code § 67-6537, the general concept of using surface water before ground water for irrigation is already a policy of the Department and EG's arguments related to the policy expressed in LUPA are, therefore, red herrings. *Id.* FCDC argues the Department has consistently used a supplemental condition on

water permits and rights requiring the use of available surface water prior to use of supplemental ground water for irrigation.[6] *Id.* at 5–6; and *see* Exhibits 114-118.

The Director agrees with the hearing officer and FCDC. While Idaho Code § 67-6537 does not require IDWR to consider LUPA in the water appropriation process, it expressly states the public interest value of encouraging the use of existing surface water and systems before developing new ground water sources. Through Idaho Code § 67-6537, the Legislature articulates the public interest of the state of Idaho to "encourage the use of surface water for irrigation." When there is a land use change, "surface water [shall be used], where reasonably available, as the primary water source for irrigation." It is proper to *consider* this statement of public interest value as a relevant and important factor when analyzing the local public interest of approving the use of new ground water sources on lands already served by surface water and delivery systems.

The bases for the legislative statement, and for the Department's surface water first supplemental condition are:

- Preservation of ground water aquifers and ground water supply;
- Conservation of ground water for uses that typically require better water quality;
- Maintenance of surface water distribution systems as sources of ground water recharge (incidental recharge, carriage); and
- Preservation of the economic viability of surface water delivery entities.

In this case, the subdivided parcels, historically used for irrigated agriculture, are now two-acre residential lots. Whether or not this is a land use change under LUPA is a separate inquiry from whether it is in the local public interest to allow the parcels to be irrigated through existing, readily available, surface water and delivery systems, or through the development of new ground water sources. For the reasons stated above, and in this case, the Director concludes the local public interest is best served by retention and use of surface water on the subdivided parcels. The "effects of such use [of ground water] on the public water resource" would increase use of ground water and possibly diminish the use of surface water contrary to the legislatively defined "interests that the people in the area directly affected by a proposed water use have . . . ." Idaho Code § 42-202B(3).

The Availability of Surface Water to EG

On exceptions, EG argues that because the FCDC shares are no longer available for use by it (again, due to the conveyance of the underlying parcels from OMM to EG without FCDC shares) the ground water irrigation aspects of the Applications should be approved. *EG*

[6] A typical Department groundwater supplement condition states: "The right holder shall not divert [ground] water for irrigation purposes under this right if use of the primary surface water rights is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of annual assessment, without an approved transfer pursuant to Idaho Code 42-222 or other Department approval." *See e.g.* Exhibits 114-118.

Exceptions at 8. EG argues that FCDC cannot require a landowner to sell shares along with the private property the shares were previously used on, because the shares are not appurtenant to the underlying land. *Id.*[7] Further, EG argues there is no evidence approval of the Applications will reduce the use of FCDC's surface water because OMM owns other land within the FCDC service area where the surface water shares could be used. *Id.* at 14. Finally, EG argues the hearing officer should not have conditioned approval of the Applications on FCDC's consent under its by-laws because FCDC's viability is not a relevant local public interest policy factor. *Id.* at 9.

FCDC responded to EG's Exceptions by arguing the post-hearing conveyance of the underlying parcels from OMM to EG, without the FCDC surface water shares, represents a disingenuous maneuver to avoid the conclusion surface water is reasonably available to it. *FCDC Exceptions Response* at 10. FCDC argues that at all relevant times—and until a month after the July 2020 hearing—OMM was capable of, and did receive and use, surface water irrigation through FCDC's system on the relevant parcels. *Id.* FCDC argues:

> [A]n existing [FCDC] shareholder, entitled to receive water through a system capable of delivering water to the land should not be allowed to circumvent and manipulate the ownership of the land, or take other intentional actions to withhold the transfer of shares, simply to avoid the sound policies of the Department to encourage the continued use of surface water.

Id. at 8-9. FCDC argues this outcome should be the same whether an existing surface water user discontinues use prior to an application being approved or after. *Id.* at 13 n.16.

FCDC argues EG's attempted circumvention of its use of FCDC surface water by submitting evidence of a potential sale,[8] and, post-hearing, selling the underlying parcels to EG (with OMM withholding the FCDC shares) are tactics akin to a landowner intentionally manipulating or destroying a delivery system "by one's own hand or consent and then use that as a basis for exclusion" from the system. *Id.* at 8. FCDC argues the Department's supplemental ground water condition specifically prohibits such tactics:

> The right holder shall not divert water for irrigation purposes under this right if use of the primary surface water rights **is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of**

[7] FCDC acknowledges its shares are transferable and not appurtenant (they are not water rights) to the lands on which the water is used. Exhibit 13 (Deposition of FCDC Board member Tom Johnston).

[8] Specifically, FCDC argued evidence of the sale of a portion of OMM's FCDC's shares to another water user in FCDC's service area shortly before the hearing was a failed attempt to show that the water could be used elsewhere in FCDC's service area. *FCDC Exceptions Response* at 3. FCDC argued evidence of the proposed sale should have no bearing on the outcome of this case because the potential sale was based on two uncertain factors: (1) FCDC approval of the sale; and (2) Department approval of the Applications with full ground water irrigation use. *Id.*

annual assessment, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.

Id. at 9.

The Director agrees with the hearing officer and FCDC. The benefit of continued use of surface water is a reasonable and valid local public interest factor to consider. The continued viability of a surface water delivery system is also a reasonable local public interest factor when considering whether surface water is available to a transfer applicant. IDWR encourages the continued use of existing surface water delivery systems for the reasons already explained above. EG's intentional actions to discontinue the use of the readily available FCDC surface water and delivery system should be discouraged.

EG argues it no longer has access to surface water. The Director disagrees. Any lack of access by EG to surface water is a result of the intentional conveyance of the parcels from OMM to EG after the hearing, without the previously used FCDC shares. The Director concludes it is not in the local public interest to allow developers to intentionally manipulate access to surface water. It *is* in the local public interest to encourage the continued use of surface water and surface water delivery systems.

As described above, the Director recognizes the public interest value the Idaho Legislature adopts in Idaho Code § 67-6537. The Director also considers the "reasonable availability" inquiry in that statute to be a valuable factor in determining whether a transfer applicant has access to surface water. Idaho Code § 67-6537 states, in pertinent part, "[t]he intent of this section is to encourage the use of surface water for irrigation . . . where reasonably available." For purpose of the local public interest inquiry, surface water is reasonably available if:

(a) A surface water right is, or reasonably can be made, appurtenant to the land;
(b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity's distribution system is capable of delivering the water to the land; or
(c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water right to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.

Idaho Code § 67-6537(1).

In this case—prior to the Assignment—OMM's FCDC water shares represented reasonably available surface water and access to a capable delivery system to the Application's places of use. Until at least the irrigation season of 2020, the FCDC shares were being actively used on the parcels for agricultural irrigation. Nothing has physically changed to prevent delivery of the surface water to the parcels. FCDC asserts it is willing and ready to continue to provide surface water to the parcels. Despite the Assignment, surface water is still reasonably available to EG and FCDC's system is capable of delivering that water. Surface water is reasonably available to EG and its continued use is in the local public interest.

Rule 45.01 and the Local Public Interest Inquiry

EG argues the hearing officer did not analyze the local public interest properly pursuant to Rule 45.01 of the Water Appropriation Rules because the elements listed in Rule 45.01 were not specifically addressed.[9] EG argues the hearing officer also identified, but did not address, other local public interests such as fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation, navigation, water quality, and the effect of such use on the availability of water for alternative uses in a reasonable time. *EG Exceptions* at 9–10. EG argues the Applications should be approved because: (1) approval of the Applications is good for the local economy as the lots have been approved by Canyon County and the infrastructure is in place for development, which will increase local tax revenues, create jobs, and increase patronage to local businesses; (2) approval would have minimal, if any, impact on local recreation, the local environment, or local wildlife; and (3) approval would allow for more convenience and better water quality for users, and would reduce runoff of silty surface water to the river. *EG Exceptions* at 9–12.

First, while the Department's Water Appropriation Rules (*see* IDAPA 37.03.08.045.01.e.i-iii) include local public interest criteria, the definition of local public interest was significantly narrowed by the Idaho Legislature in 2003. The Water Appropriation Rules have not been updated to reflect the 2003 legislative amendments. As a result, IDAPA 37.03.08.045.01.e.i-iii is no longer used as the analytical framework of the local public interest inquiry. Regardless, the hearing officer and Director recognize the validity and importance of the local public interests identified by EG. The Director concludes most of these same benefits result from the continued use of reasonably available surface water to irrigate the parcels. The partial denial here is not, and cannot be, determinative of the success or future of the River Bluff Development. Most of the local public interest values identified in the EG Exceptions, and in the record, may be sustained despite the partial denial.

The Director's Conclusions on Exceptions

The Director has weighed and balanced the local public interest factors identified in the record. The Director concludes the local public interest in maintaining the use of surface water, and the benefits that stem from such use, as described above, outweigh any conflicting local public interests identified in the record. The Director also concludes the continued use of surface water may support many of the local public interests identified in the record.

The determinative factor in this case is the local public interest of preventing readily available surface water irrigation from being replaced by ground water irrigation. The ground water irrigation portions of the Applications should be denied.

The hearing officer's preliminary order, and the partial denial of the ground water irrigation uses, is sustained. The hearing officer's local public interest analysis below has been amended to reflect the Director's review on exceptions.

[9] The definition of, and Idaho law related to, the local public interest is described supra in subsection 1 of the Exceptions analysis.

FINDINGS OF FACT

1. OMM filed the Applications to divert ground water for domestic and irrigation purposes on 14 separate land parcels located within River Bluff Development near Fruitland in Canyon County. Exhibit 4 at 4. Table 1 summarizes the Applications.

IDWR Application Number	Proposed Priority Date	Domestic Rate (cfs)	Irrigation Rate (cfs)	Total Rate (cfs)	Proposed Acres	Parcel
63-34832	01/02/2020	0.04	0.07	0.11	2.3	11
63-34833	01/02/2020	0.04	0.05	0.09	1.5	12
63-34834	01/02/2020	0.04	0.07	0.11	2.3	13
63-34835	01/02/2020	0.04	0.05	0.09	1.5	14
63-34836	01/02/2020	0.04	0.06	0.10	1.9	15
63-34837	01/02/2020	0.04	0.04	0.08	1.3	16
63-34838	01/02/2020	0.04	0.05	0.09	1.5	17
63-34840	01/02/2020	0.04	0.05	0.09	1.5	4
63-34841	01/02/2020	0.04	0.06	0.10	2.1	5
63-34842	01/02/2020	0.04	0.05	0.09	1.5	6
63-34843	01/02/2020	0.04	0.07	0.11	2.2	7
63-34844	01/02/2020	0.04	0.05	0.09	1.5	8
63-34845	01/02/2020	0.04	0.07	0.11	2.2	9
63-34846	01/02/2020	0.04	0.05	0.09	1.5	10
Total		**0.56**	**0.79**	**1.35**	**24.8**	

Table 1: Summary of Applications.

2. The irrigation place of use for each application is the total acreage of the parcel less 0.5 acres for buildings and other hardscape. Exhibit 11 at 6.

3. OMM requested the use of ground water as the sole source of water for irrigation of the proposed places of use and proposes to cease use of surface water. Exhibit 4 at 2.

4. The Applications propose construction of a single, six-inch diameter well, 200 feet (ft) in depth, per parcel. The proposed water bearing zone for each well is 40 to 200 ft below ground surface (bgs). Exhibit 4 at 1–2.

5. OMM hired Adamson Pump & Drilling to construct a domestic well ("Test Well") on Lot 8, Block 1 of the Orchard Tract.[10] The Test Well is completed to a depth of 154 ft bgs and is screened from 144 ft to 154 ft. The static water level of the well was 45 ft bgs with water first encountered at 35 ft bgs. The pump test conducted by the well driller yielded a discharge of 50+ gallons per minute (gpm) with 75 ft of drawdown. Exhibit 7.

[10] This location is referred to as Parcel 16 on Application for Permit to Appropriate Water No. 63-34837.

6. Yield from the Test Well is 50+ gpm or 0.11+ cfs, which is greater than the largest total diversion rate proposed under any one of the Applications.

7. There are 37 wells within a half-mile radius of the Applications' proposed points of diversion. Of the 37 wells, 36 were permitted for domestic use, and one was for irrigation use. The well depths range from 27 ft bgs to 208 ft bgs. The static water levels range from 3 ft bgs to 99 ft bgs. The yields range from 15 gpm[11] to 100 gpm. Exhibit 8.

8. Hydrographs for four wells in the lower Boise River drainage show stable water levels with no indication of ground water declines. The nearest of these four wells is approximately five miles from the Applications' points of diversion. Exhibit 9.

9. Developing residential use increases Canyon County tax revenues. Testimony of Alan Mills.

10. Road, phone, power, and utility infrastructure is already constructed to allow for residential development of the Applications' proposed points of diversion and places of use. Testimony of Alan Mills.

11. As of June 15, 2020, eight of the 14 parcels proposed for residential development under the Applications were for sale. There are no additional Canyon County approvals necessary to list the remaining parcels for sale. Testimony of Matt Wilke.

12. As of June 15, 2020, one of the parcels was pending sale contingent upon the outcome of the Applications. Testimony of Matt Wilke.

13. OMM intended for the buyer of each parcel to bear the costs of drilling the wells proposed by the Applications. The cost to install a pressurized irrigation system, if required, would initially be borne by the developer, but ultimately passed on to the buyer. Testimony of Alan Mills. Similarly, EG's intent is to "sell the lots with their respective permits." *EG Declaration* at 1. It is reasonable to conclude EG also intends for the cost of well construction and permit development to ultimately be borne by the buyers.

14. The Applications state the points of diversion and places of use are owned by OMM. Exhibit 4 at 2. As of June 15, 2020, the points of diversion and property underlying the places of use were owned by OMM. Testimony of Craig Froerer. On July 28, 2020, the Department received notice the Applications' points of diversion and the property underlying the places of use were owned by EG. *EG Declaration* at 1. A deed included with the Assignment shows the property was conveyed to EG on July 22, 2020, approximately one month after the hearing.

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[11] Exhibit 8 contains a record of a well for Grant Peterson (Map No. 27) reporting 0 gpm production. Department records suggest this is a typographical error as the well construction report for the well lists a pump test rate of 20 gpm.

15. The Applications' places of use are within the FCDC service area ("FCDC Service Area"). *See* water right nos. 63-138C, 63-188, 63-189, 63-190, 63-191, 63-296, 63-4851, 63-4852, 65-66, and 65-67.

16. FCDC, a cooperative ditch company, originated in 1902 when settlers purchased water rights and created the company to issue stock to private landowners for the use of those water rights. Exhibit 13 at 7.

17. Article V, Section 3 of *Farmers Coop Amended By-Laws* dictates that FCDC issue shares of the capital stock. These shares entitle the shareholder to "the perpetual and equitable right to the [FCDC's] available water supply, water rights and irrigation system . . . ." Exhibit 16 at 5.

18. OMM is the holder of 64 shares of FCDC capital stock. Exhibit 10.

19. The 64 shares of FCDC capital stock entitle OMM to irrigate up to 128 acres of land. Testimony of Tom Johnston.

20. OMM retained ownership of the 64 FCDC shares when it conveyed the Applications' points of diversion and property underlying the places of use to EG. *Notice of Assignment* at 1.

21. As of June 15, 2020, OMM owned 112 acres of land within the FCDC Service Area. OMM has historically diverted water from the FCDC delivery system to irrigate 89 of the 112 acres owned by OMM. OMM does not own any additional land within the FCDC Service Area. Testimony of Craig Froerer.

22. In 2018 and 2019, OMM used water from the FCDC delivery system to drip-irrigate sweet potatoes on the Applications' proposed places of use. In 2020, OMM used water from the FCDC delivery system to irrigate sugar beets on a portion of the Applications' proposed places of use. Testimony of Craig Froerer.

23. On June 1, 2020, OMM and JC Watson Company ("Watson") entered into a *Contract for Purchase and Sale of Water Shares* ("Agreement"). The Agreement states OMM will transfer 14 of its 64 FCDC shares to Watson "upon final approval of the [Applications for the] ground water rights for the 14 lots [Applications' place of use]." Exhibit 29 at 1.

24. As a FCDC shareholder, OMM is subject to the FCDC Amended By-Laws. Testimony of Craig Froerer.

25. Article II, Section 2, paragraph d. of the FCDC Amended By-Laws states the FCDC board of directors can adopt rules and regulations for the conduct and business affairs of FCDC. Exhibit 16 at 2.

26. Article VI of FCDC Amended By-Laws states the transfer of FCDC shares is subject to the approval of the FCDC board of directors. Exhibit 16 at 5. Testimony of Tom Johnston.

27. Article VII, Section 5 of the FCDC Amended By-Laws states:

> If any shareholder shall divide . . . any portion of his land and who shall sell shares in the Company to persons acquiring any such lands then such shareholder dividing said land shall provide for a ditch distribution system, easements and weirs for the division and distribution of water to the property so divided. Any division or system described above must be approved by the Board of Directors. All costs of ditch, weirs, and any other equipment or irrigation devices necessitated by such land division shall be paid entirely by the shareholders selling or subdividing such land.

Exhibit 16 at 6.

28. A resolution adopted August 13, 2003, by FCDC states that any shareholder who subdivides land into three or more parcels shall transfer ownership of the associated FCDC shares to one designated person or entity. Exhibit 16 at 6.

29. The main purpose of the August 13, 2003, resolution is "to keep [FCDC] water rights in agricultural production and the stock certificates as whole as possible . . . ." Exhibit 16 at 6 and Exhibit 105 at 31.

30. FCDC desires to avoid having the water it delivers replaced with other water sources, such as ground water or wastewater. Testimony of Tom Johnston. On March 11, 2020, FCDC adopted a resolution stating "all shareholders must use surface water deliveries from the Ditch Company [FCDC] pursuant to the shareholders existing shares, prior to any use of ground water for irrigation purposes. . . ." Exhibit 28. Exhibit 103.

31. FCDC shares are not appurtenant to the land they are associated with and can be transferred for use on other lands within the FCDC Service Area. Testimony of Tom Johnston.

32. As of June 15, 2020, OMM was a shareholder entitled to and capable of receiving water from FCDC to the Applications' proposed places of use. Testimony Craig Froerer.

33. On November 29, 2007, Canyon County's Development Services Department authorized the division of eight Orchard Tract lots into 17 parcels. Exhibits 3 and 112. The Applications' places of use are 14 of the 17 parcels. The parcels were zoned agricultural, and the zoning designation was not changed during the division. Testimony of Alan Mills.

EVALUATION CRITERIA / ANALYSIS

Governing Statutes and Rules

Idaho Code § 42-203A(5) states in pertinent part:

> In all applications whether protested or not protested, where the proposed use is such: (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest as defined in section 42-202B, Idaho Code, or (f) that it is contrary to conservation of water resources within the state of Idaho . . . the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

Rule 45 of the Department's Water Appropriation Rules (IDAPA 37.03.08) further interprets the review criteria established in Idaho Code § 42-203A(5).

Rule 50.01 of the Department's Water Appropriation Rules (IDAPA 37.03.08) states that the Director may issue permits with conditions to ensure compliance to meet the criteria of Idaho Code § 42-203A.

The applicant bears the burden of proof for elements (a) through (d) in Idaho Code § 42-203A(5). *See* IDAPA 37.03.08.040.04. All parties bear the burden of coming forward with evidence about any factor affecting local public interest of which they are knowledgeable. *Id.* The applicant bears the ultimate burden of persuasion for all of the elements in Idaho Code § 42-203A(5), including the local public interest element. *Id.*

Reduction to Existing Water Rights

Rule 45.01.a of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth:

> a. Criteria for determining whether the proposed use [of water] will reduce the quantity of water under existing water rights. A proposed use will be determined to reduce the quantity of water under an existing water right (i.e., injure another water right) if:
>
> i. The amount of water available under an existing water right will be reduced below the amount recorded by permit, license, decree or valid claim or the historical amount beneficially used by the water right holder under such recorded rights, whichever is less.

ii. The holder of an existing water right will be forced to an unreasonable effort or expense to divert his existing water right. Protection of existing groundwater rights are subject to reasonable pumping level provisions of Section 42-226, Idaho Code . . . [.]

IDAPA 37.03.08.045.01.a.

FCDC stipulated that injury to existing water users is not at issue. The applicant still has the burden to come forward with evidence demonstrating the proposals meet this criterion. IDAPA 37.03.08.040.04. OMM provided a diagram depicting nearby wells and summarized their depths, static water levels, and yields. FCDC provided no evidence to refute the evidence submitted by OMM. Of the 37 wells within a half-mile radius of the Applications' proposed points of diversion, all but one of these wells is for domestic use. These wells are relatively shallow, with the deepest well depth being 208 ft. These wells are also relatively productive, with all but three of the wells reported as capable of producing in excess of the Department's standard 0.04 cfs (18 gpm) duty of water for domestic use. The quantity of water proposed from all 14 Applications combined is 1.35 cfs, with only 0.56 cfs being for year-round domestic use. Given the relatively high yields at shallow depths, it is not likely the proposed use will reduce the quantity of water under existing ground water rights or uses in the area nor force existing users to an unreasonable expense to continue their ground water use.

The Applications' development of ground water use in the proposed project location will not reduce the quantity of water available to existing water users or force existing water users to an unreasonable effort or expense to continue their ground water uses. The Assignment did not change this outcome and the burden is met.

Sufficiency of Water Supply

Rule 45.01.b of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth the criteria for determining whether the water supply is sufficient for a proposed project: "The water supply will be determined to be insufficient for the proposed use if water is not available for an adequate time interval in quantities sufficient to make the project economically feasible . . . ." IDAPA 37.03.08.45.01.b.

Rule 45.01.b requires the Department to evaluate whether the aquifer can supply the proposed rate and volume of diversion. FCDC stipulated that sufficiency of the ground water supply is not at issue. The applicant still has the burden to come forward with evidence demonstrating the proposals meet this criterion. IDAPA 37.03.08.040.04. OMM provided the well log for the Test Well constructed in Parcel 16. The Test Well yielded over 50 gpm, which is over 0.11 cfs. The maximum amount of water proposed under any one of the Applications is 0.11 cfs. The Applications each propose to construct and use an individual well to supply only one parcel. The 14 proposed wells will be constructed in close proximity to the Test Well—within a single forty-acre tract. Therefore, the Test Well is likely representative of what can be developed for each parcel. It is likely wells can be constructed to supply the quantities proposed in the Applications.

OMM has met its burden of establishing that the aquifer can supply a sufficient quantity of water for the proposed projects. The Assignment did not change this outcome and the burden is met.

Lack of Good Faith / Speculation

Rule 45.01.c of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth criteria for determining whether an application is filed in good faith and not for speculative purposes. FCDC stipulated that good faith and speculation are not at issue. The Applicant still has the burden to come forward with evidence for evaluation of this criteria. IDAPA 37.03.08.040.04.b.i. An applicant must have "legal access to the property necessary to construct and operate the proposed project." IDAPA 37.03.08.45.01.c.i. An applicant must also demonstrate that it is "in the process of obtaining other permits needed to construct and operate the project" and that "there are no obvious impediments that prevent the successful completion of the project." IDAPA 37.03.08.045.01.c.ii-iii.

When the Applications were filed, OMM owned the 14 parcels proposed as the Applications' points of diversion and places of use. The land proposed for the places of use was first platted in 1910 and later administratively modified in 2007 to create the 14 parcels proposed for development in the Applications. Exhibits 2, 3, and 112. The parcels are currently zoned for agricultural use, and there is no proposal to rezone them. No additional Canyon County approvals are necessary to sell the parcels to prospective home builders.

OMM purchased the parcels where the points of diversion and places of use are proposed with the intent to sell them to prospective home builders. During the hearing, Matt Wilke testified that one of the parcels is already pending purchase contingent upon the outcome of the Applications. Alan Mills testified that the road, power, telephone, and other utility infrastructure is already in place for development of the parcels. Given the development of the other utilities and that one of the parcels was already pending sale when the hearing occurred, there is a high probability that if the Applications are approved, the parcels will be sold and the proposed water use will be developed.

IDAPA 37.03.08.035.02.d requires the assignment of interest in the Applications to include evidence that the Applications were not filed for speculative purposes. In the Declaration, EG asserted it does not intend to hold the permits, if approved, for speculative purposes; it intends to sell the parcels and assign the permits to the new parcel owners. *EG Declaration* at 1. OMM also stated the intent of filing the Applications is to sell the parcels for residential development. Testimony of Craig Froerer. OMM's assignment of the Applications to EG, which intends to sell the lots for residential development is consistent with OMM's original intent. EG has not amended the Applications to show any other intent.

OMM has legal access to the property necessary to construct and operate the proposed project. No obvious impediments exist to successful completion of the project. The Assignment included evidence that EG is now the owner of the parcels. EG has legal access to the property necessary to construct and operate the proposed development or to sell the parcels to prospective home builders.

Therefore, OMM met its burden to demonstrate the Applications were made in good faith and not for speculative purposes. The Assignment and associated documents conveyed all interest in the Applications and ownership of the land to EG and demonstrate EG has similar intentions as those demonstrated by OMM, so the Assignment of the Applications to EG does not materially affect this analysis.

Sufficient Financial Resources

Rule 45.01.d of the Department's Water Appropriation Rules (IDAPA 37.03.08) sets forth the criteria for determining whether an applicant has sufficient financial resources to complete a project. "An applicant will be found to have sufficient financial resources upon a showing that it is reasonably probable that funding is or will be available for project construction or upon a financial commitment letter acceptable to the Director." IDAPA 37.03.08.045.01.d.i.

FCDC stipulated that the sufficiency of the applicant's financial resources is not at issue. The applicant still has the burden to come forward with evidence demonstrating the proposals meet this criterion. IDAPA 37.03.08.040.04. The costs of developing the water uses proposed in the Applications will ultimately be borne by the buyers of the parcels. The cost of drilling each well proposed under the Applications will be borne by the buyer of the parcel where the well is drilled. If installation of a pressurized irrigation system is necessary to distribute surface water for irrigation purposes, OMM (or EG) will initially bear the cost, but ultimately the cost will be passed on to the buyers of the parcels in the form of higher lot prices. Neither OMM nor EG proposes to bear the cost of well construction or the cost of installing a pressurized irrigation system. Other utility infrastructure is already in place to allow for development of the residences and irrigation uses proposed.

The Idaho Supreme Court has held:

> The water resources of this state are not so limited that they must be safeguarded with permits issued *only* when the applicant has secured all necessary financing prior to the water appropriation permit application. At the same time, the applicant must make a showing that it is reasonably probable he or she will obtain the necessary financing within five years.

Shokal v. Dunn, 109 Idaho 330, 337,707 P.2d 441, 448 (1985). Given OMM's and EG's ability to purchase the land and that the water infrastructure costs will ultimately be borne by the buyers of the parcels, it is reasonably probable financial resources will be available to develop the project. Based on the premise that EG's intentions for development are similar to OMM's, the Assignment does not change the conclusion that it is reasonably probable financing will be available. The burden of establishing sufficient financial resources are available to complete the project has been met.

Local Public Interest

The Preliminary Order's analysis of the local public interest is supplanted by the Director's analysis of this criteria on Exceptions. *See* supra pp. 4–9.

In summary, the Director concludes the local public interest in maintaining the use of readily available surface water, and the benefits that stem from such use, as described above, outweigh any conflicting local public interests identified in the record. The Director also concludes the continued use of surface water may support many of the local public interests identified in the record.

The Director further concludes that, despite the Assignment, FCDC surface water *is* reasonably available to EG, and FCDC's delivery system is capable of delivering such water. Surface water is reasonably available to EG and its continued use is in the local public interest.

Conservation of Water Resources

Consideration of whether a proposed use is contrary to conservation of water resources within the State of Idaho is required by Idaho Code § 42-203A(5)(f). The conservation of water resources review is separate and distinct from the local public interest review under Idaho Code § 42-203A(5)(e). The conservation of water resources review is an evaluation of the efficiency of the proposed water use.[12]

The Applications propose using 0.03 cfs per acre for irrigation. This is consistent with Department standards of efficiency for irrigation of small (< 5 acre) parcels. The proposal to divert up to 0.04 cfs for Domestic use is also consistent with Department standard appropriations.

The proposals are consistent with principles of conservation of water resources in Idaho.

[12] The efficiency conservation review is distinct from the local public interest review that can consider whether the water source should be appropriated for a given purpose or "conserved" (held in reserve) for other uses.

CONCLUSIONS OF LAW

The burdens of proof for all elements of review set forth in Idaho Code § 42-203A(5) are satisfied to the extent a partial approval may be granted.

ORDER

IT IS HEREBY ORDERED that the domestic portions of *Applications for Permit to Appropriate Water Nos. 63-34832 through 63-34838 and 63-34840 through 63-34846* are APPROVED as shown in the accompanying approval documents.

IT IS FURTHER ORDERED that the irrigation portions of *Applications for Permit to Appropriate Water No. 63-34832 through 63-34838 and 63-34840 through 63-34846* are DENIED.

Dated this 14th day of October 2021.

Gary Spackman
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of October 2021, I caused to be served a true and correct copy of the foregoing, *Order on Exceptions; Final Order Partially Approving Applications*, via email and U.S. Mail, upon the following:

Albert P. Barker Michael A. Short **BARKER ROSHOLT & SIMPSON LLP** P.O. Box 2139 Boise, ID 83701-2139 apb@idahowaters.com mas@idahowaters.com *For Applicants*	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ Email
S. Bryce Farris **SAWTOOTH LAW OFFICES, PLLC** P.O. Box 7985 Boise ID 83707-7985 bryce@sawtoothlaw.com *For Protestant*	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ Email

Sarah Tschohl
Legal Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: The petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Revised July 1, 2010

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Third Judicial District, Canyon County
Chris Yamamoto, Clerk of the Court
By: Marah Meyer, Deputy Clerk

Albert P. Barker, ISB No. 2867
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Attorneys for Eden's Gate LLC

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EDEN'S GATE LLC, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his official capacity as Director of the Idaho Department of Water Resources, Respondents, IN THE MATTER OF APPLICATION FOR PERMIT No. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	**Case No. CV** CV14-21-10116 **Fee Category L.3** **NOTICE OF APPEAL AND PETITION FOR JUDICIAL REVIEW OF AGENCY ACTION**

COMES NOW, the Petitioner, Eden's Gate LLC ("Eden's Gate"), by and through its attorneys of record, Barker Rosholt & Simpson, LLP, and hereby files this Petition for judicial review of a final agency action of the Director of the Department of Water Resources.

//

STATEMENT OF THE CASE

1. This Petition is a civil action filed pursuant to Idaho Code §§ 67-5270 and 67-5279 seeking judicial review of the *Order on Exceptions; Final Order Partially Approving Applications* ("*Final Order*") entered by the Director of the Department of Water Resources on October 14, 2021, in the above-referenced contested case.

JURISDICTION AND VENUE

2. This Petition is authorized by Idaho Code §§ 67-5270 and 67-5279.
3. This Court has jurisdiction over this action pursuant to Idaho Code §§ 42-1701A and 67-5272.
4. Venue lies in this Court pursuant to Idaho Code § 67-5272 and the Snake River Basin Adjudication Court's July 1, 2010, Administrative Order Adopting Procedures for the Implementation of the Idaho Supreme Court Administrative Order dated December 9, 2009. Petitioner Eden's Gate's primary place of business lies in Canyon County, Idaho, and the real property that was the subject of the agency decision is located in Canyon County, Idaho.
5. Pursuant to the Idaho Supreme Court's Administrative Order issued on December 9, 2009, "all petitions for judicial review of any decision regarding administration of water rights from the Department of Water Resources shall be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District." The SRBA Court's procedures instruct the clerk of the district court in which the petition is filed to issue a Notice of Reassignment. The Petitioner has attached a copy of the SRBA Court's Notice of Reassignment form for the convenience of the clerk.
6. The Director's *Final Order* was issued on October 14, 2021. The Director's *Final Order* is a final agency action subject to review pursuant to Idaho Code § 67-5270(3). This Petition is

timely as it is filed within 28 days of the date of service of the final order. *See* Idaho Code § 67-5273(2).

PARTIES

7. Petitioner Eden's Gate is a duly organized Idaho limited liability company operating in the State of Idaho.
8. Respondent, Idaho Department of Water Resources is a state agency with its main office located at 322 E. Front Street, Boise, Idaho. Respondent, Gary Spackman, is the Director of the Idaho Department of Water Resources.

STATEMENT OF INITIAL ISSUES

9. Petitioner asserts the following issues on judicial review:
    a. Whether the Director erred by relying on the Idaho Land Use Planning Act, Idaho Code § 67-6537, to deny the applications for irrigation use, but at the same time expanding the Act beyond the terms and conditions of Idaho Code § 67-6537, and whether in doing so the Director has effectively created a new *de facto* IDWR rule requiring the use of surface water in all circumstances under the local public interest rules, contrary to the legislative direction in Idaho Code § 67-6537 and Idaho Code § 42-202B(3) and contrary to the local public interest rules?
    b. Whether the Director in denying the applications for irrigation use has in effect created new State-wide policy or rule without statutory authority and without engaging in rulemaking.
    c. Whether the Director's order denies Petitioner the right to appropriate unappropriated waters in violation of Idaho's Constitution, Article XV § 3.

d. Whether the Director erred by concluding that the local public interest criteria required the use of surface water for irrigation when the ground water supply in the vicinity of the Petitioner's land is fully capable of supplying water to the lands to be irrigated without injury to any other water rights?

e. Whether the Director erred by concluding that the local public interest required the use of surface water for irrigation to maintain surface water distribution systems when the surface water shareholder continues to have an obligation to pay assessments, when the surface water delivery entity has a service area that is over 21,000 acres, but only has the right to irrigate 15,000 acres, leaving over 6,000 acres of land within Farmers' Co-op's Service Area susceptible of additional surface water irrigation, when there are willing buyers for the water shares, and when the water shares are transferable to other water users?

f. Whether the Director erred in requiring that the surface water for irrigation must remain with the land when Farmers' Co-op's shares are not appurtenant to the land?

g. Whether the Director erred in denying the applications for irrigation based on Idaho's Land Use Act, Idaho Code § 67-6537, when the facts clearly demonstrate that Idaho Code § 67-6537 does not apply to Petitioner's project?

h. Whether the Director erred by applying a "standard" condition on supplemental ground water rights to applications for primary ground water rights for irrigation, when no similar "standard" condition, guidance or rule applies to applications for primary ground water rights?

i. Whether the Director erred by failing to consider that the water quality of the surface water was not compatible with the desires and needs of the residents and the type of

small scale irrigation systems that would have to be used for surface delivery (e.g. silt, seeds and pesticides), and failing to consider the environmental benefit of reducing runoff of silty surface water to the Boise River in a portion of the river that is water quality limited?

j. Whether the Director erred in determining that Farmers' Co-op's water is available to Eden's Gate when Eden's Gate does not own shares in Farmers Coop and when the water rights are not appurtenant to the land?

AGENCY RECORD

10. Judicial review is sought of the Director's October 14, 2021 *Final Order*.

11. Petitioner requests that the agency record for this proceeding as required by Idaho Code § 67-5249, and § 67-5242 be prepared, together with a transcript of the hearing.

12. The estimated cost of the preparation of the agency record is $20.00 according to the agency, which sum has been paid to the Idaho Department of Water Resources.

13. Service of this Notice of Appeal and Petition for Judicial Review has been made on the Respondents at the time of the filing of this Petition.

JUDICIAL REVIEW I.R.C.P. 84I INFORMATION

14. **Name of Agency for Which Judicial Review is Sought**: Idaho Department of Water Resources, an executive department existing under the laws of the state of Idaho pursuant to Idaho Code § 42-1701 *et seq*., with its state office located at 322 E. Front St., Boise, Ada County, Idaho 83702.

15. **Title of District Court to Which Petition is Taken**: In the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon.

16. **Case Caption and Action for Which Judicial Review is Sought**: In The Matter Of Application For Permit No. 63-34832 Through 63-34838 And 63-34840 Through 63-34846 All In The Name Of Eden's Gate LLC.
17. **Hearing Recording**: An administrative hearing was held on June 15, 2020, before the Idaho Department of Water Resources with Nick Miller as the Hearing Officer.
18. **Statement of Issues of Judicial Review**: Whether the Director committed reversible error in his *Final Order*.
19. **Designation of Whether a Transcript is Required**: A hearing transcript is requested.
20. **Attorney Certification**: I, Albert P. Barker, counsel for the Petitioner, certify the following: 1) service of this petition has been made upon the Department; and 2) that the clerk of the agency has been paid the estimated fee for the preparation of record after I contacted Garrick Baxter of the Department, who provided the estimate of $20.00, which I then paid by mailing a check for the amount to the Department's state office, located at 322 E. Front St., Boise, Idaho 83702.

DATED this 10th day of November, 2021.

/s/ Albert P. Barker
Albert P. Barker
Attorney for Eden's Gate LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of November, 2021, I served a copy of the foregoing **EDEN'S GATE LLC** *Notice of Appeal and Petition for Judicial Appeal* by the method indicated below, and addressed to the following:

Idaho Dept. of Water Resources 322 E Front St Boise, Idaho 83720-0098	____ Hand Delivery ____ U.S. Mail ____ Facsimile __x__ iCourt __x__ Email: nick.miller@idwr.idaho.gov
S. Bryce Farris Sawtooth Law 1101 W River St., Suite 110 Boise, ID 83702	____ Hand Delivery ____ U.S. Mail ____ Facsimile ____ Overnight Mail __x__ Email: bryce@sawtoothlaw.com

/s/ Albert P. Barker
Albert P. Barker

PioneerTitleCo.
GOING BEYOND

139 N. Whitley Drive
Fruitland, ID 83619

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CHRIS YAMAMOTO
CANYON COUNTY RECORDER
Pgs=11 DLSTEPHENS $15.00
TYPE: DEED
PIONEER TITLE CANYON - CALDWELL
ELECTRONICALLY RECORDED

File No. 667571 /SM

WARRANTY DEED

For Value Received Bayview Ranch, LLC, a California Limited Liability Company hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

One More Mile, LLC an Idaho Limited Liability Company

hereinafter referred to as Grantee, whose current address is 3255 Kesler Ln Nyssa, OR 97913-5054
The following described premises, to-wit:

See Exhibit A attached hereto and made a part hereof.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantees(s) heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the said Grantee(s), the Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to U.S. Patent reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and assessments, includes irrigation and utility assessments, (if any) which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: January 28, 2019

Bayview Ranch, LLC, a California Limited Liability Company

By: _____
John Chandler, Member
State of CA, County of Sacramento

This record was acknowledged before me on January 28, 2019 by John Chandler, as Member of Bayview Ranch LLC.

See Attached
Signature of notary public
Commission Expires:

EXHIBIT 1

01-001

EXHIBIT A

Parcel 1:

The following describes a parcel of real property lying within Block 2 and Block 3 and a portion of Block 4, Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Canyon County records, and also located in the Northeast Quarter (NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the North boundary line of said NE ¼, South 89°59'00" West, 25.00 feet to the POINT OF BEGINNING;

Thence, continuing along said North boundary line, South 89°59'00" West, 2075.97 feet, to the right bank of the Snake River;

Thence, continuing along said right bank the following courses and distances:
South 22°16'45" West, 295.38 feet;
South 20°34'18" West, 259.68 feet;
South 18°15'34" West, 246.44 feet;
South 01°48'20" West, 433.14 feet;
South 19°22'42" West, 413.94 feet;
South 52°24'29" West, 125.26 feet, to the West boundary line of said NE ¼;
Thence, departing said right bank, and along said West boundary line, South 00°13'44" East, 1030.98 feet, to the Southwest corner of said NE ¼;
Thence, along the South boundary line of said NE ¼, North 89°20'27" East, 1319.51 feet, to the Southeast corner of said Block 2;
Thence, departing said South boundary line, and along the East boundary line of said Block, North 00°15'40" West, 1334.91 feet, to the Northeast corner of said Block 2;
Thence, along the South boundary line of said Block 4, North 89°44'20" East, 971.40 feet, to the Southeast corner of Lot 7 of Block 4;
Thence, along the East boundary line of said Lot 7, North 00°15'40" West, 647.93 feet to the Northeast corner of said Lot 7;
Thence, along the North boundary line of Lot 8 of said Block 4, North 89°44'20" East, 323.88 feet to the West right of way line of Apple Valley Road;
Thence, along said right of way and the East boundary line of said Block 4, North 00°15'40" West, 678.00 feet to the POINT OF BEGINNING.

Parcel 2:

The following describes a parcel of real property lying within a portion of Block 1 of Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Instrument Number 33653, Canyon County records and also located in the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the East boundary line of said SE ¼ NE ¼, South 00°15'40" East, 1325.84 feet; thence, South 89°44'20" West, 25.00 feet to the West right of way line of Apple Valley Road; thence, along said right of way line, South 0°15'40" East, 307.26 feet; thence, departing said right of way line, South 89°44'20" West, 15.00 feet; thence, South 0°15'40" East, 67.00 feet to the POINT OF BEGINNING;

Thence, South 00°15'40" East, 52.95 feet;
Thence, South 89°44'20" West, 253.82 feet;
Thence, 59.82 feet along a curve to the left, said curve having a radius of 85.00 feet, having a delta angle of 40°19'12", a long chord which bears, South 69°34'43" West, 58.59 feet;
Thence, North 00°15'40" West, 73.14 feet;
Thence, North 89°44'20" East, 308.82 feet to the POINT OF BEGINNING.

Parcel 3:

The following describes a parcel of real property lying within a portion of Block 1 of Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Instrument Number 33653, Canyon County records and also located in the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the East boundary line of said SE ¼ NE ¼, South 00°15'40" East, 1325.84 feet; thence, South 89°44'20" West, 25.00 feet to the West right of way line of Apple Valley Road; thence, along said right of way line, South 0°15'40" East, 487.21 feet to the POINT OF BEGINNING;

Thence, continuing along said right of way line, South 00°15'40" East, 52.85 feet;
Thence, departing said right of way, South 89°47'00" West, 289.00 feet;
Thence, South 00°15'40" East, 108.60 feet;
Thence, South 89°38'04" West, 4.82 feet;
Thence, North 00°15'40" West, 136.23 feet;
Thence, 39.27 feet along a curve to the right, said curve having a radius of 25.00 feet, a delta angle of 90°00'00", a long chord which bears, North 44°44'20" East, 35.39 feet;
Thence, North 89°44'20" East, 268.82 feet to the POINT OF BEGINNING.

PARCEL 4:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2,

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 2 from which the Southwest corner thereof bears South 00°15'40" East 15.00 feet; thence along said West line
North 00°15'40" West 285.87 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 2; thence along said East line
South 00°15'40" East a distance of 97.70 feet to a ½ inch iron rod and a point of cusp; thence leaving said East line and
Along the are of a 85.00 foot radius curve to the left 73.70 feet through a central angle of 49°40'47" and whose long chord bears South 24°34'44" West 71.41 feet to a point of tangency; thence
South 00°15'40" East 101.38 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.38 feet through a central angle of 89°53'45" and whose long chord bears South 44°41'12" West 28.26 feet to a point of tangency; thence along a line 15.00 feet distant and to the North of the South line of said Lot 2, when measured perpendicular thereto
South 89°38'05" West 273.86 feet to the POINT OF BEGINNING.

PARCEL 5:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 2; thence along the North line of said Lot 2
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 2; thence leaving said North line and along the East line of said Lot 2
South 00°15'40" East 349.70 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West a distance of 323.82 feet to a ½ inch iron rod on the West line of said Lot 2; thence along said West line
North 00°15'40" West 348.22 feet to the POINT OF BEGINNING.

PARCEL 6:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3,

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 3 from which the Southeast corner of said Lot 3 bears South 00°15'40" Fast 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 3 when measured perpendicular thereto
South 89°38'04" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 3; thence along said West line
North 00°15'40" West 270.10 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 3; thence along said East line
South 00°15'40" East 268.037 feet to the POINT OF BEGINNING.

PARCEL 7:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 3; thence along the North line of said Lot 3
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 3; thence leaving said North line and along the East line of said Lot 3
South 00°15'40" East 366.05 feet to a ½ inch iron rod; thence
North 90°00'00" West 323.82 feet to a ½ inch iron rod; thence
North 00°15'40" West 364.58 feet to POINT OF BEGINNING.

PARCEL 8:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 4 from which the Southeast corner of said Lot 4 bears South 00°15'40" East 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 4 when measured perpendicular thereto

South 89°38'04" West 323.81 to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 272.17 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 4; thence
South 00°15'40" East a distance of 270.10 feet to the POINT OF BEGINNING.

PARCEL 9:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 4; thence along the North line of said Lot 4
North 89°44'20" East 323.81 feet to a ½ inch iron rod at the Northeast corner of said Lot 4; thence leaving said North line and along the East line of said Lot 4
South 00°15'40" East 364.58 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 363.10 feet to the POINT OF BEGINNING.

PARCEL 10:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 5, BLOCK I, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 5 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 5 when measured perpendicular thereto
North 89°38'04" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 5; thence along said East line
South 00°15'40" East 270.11 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 5; thence along said West line
North 00°15'40" West 268.04 feet to the POINT OF BEGINNING.

PARCEL 11:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 5, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 5 from which an aluminum cap monument marking the Southeast corner of said Southeast Quarter bears North 89°31'47" East 1320.27 feet; thence along the West line of said Lot 5
North 00°15'40" West 367.22 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod to the East line of said Lot 5; thence along said East line
South 00°15'40" East a distance of 364.57 feet to a ½ inch iron rod on the South line of said Lot 5; thence along said South line
South 89°31'49" West 323.81 feet to the POINT OF BEGINNING.

PARCEL 12:

LEGAL DESCRIPTION OF PARCEL A OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 6 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 6 when measured perpendicular thereto
North 89°38' 04" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East 272.18 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 6; thence along said West line
North 00°15'40" West a distance of 270.11 feet to the POINT OF BEGINNING.

PARCEL 13:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod marking the Southwest corner of said Lot 6 from which an aluminum cap monument marking the Southeast corner of the aforementioned Southeast Quarter bears North 89°31'47" East 996.46 feet; thence along the West line of said Lot 6
North 00°15'40" West 364.57 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East a distance of 361.91 feet to a ½ inch iron rod on the South line of said Lot 6; thence along said South line
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 14:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 7, BLOCK 1, ORCHARD TRACTS OF THE ORECON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 7 from which the Northwest corner thereof bears North 00°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 7 when measured perpendicular thereto
North 89°38'04" East 273.84 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.45 feet through a central angle of 269°53'27" and having a long chord of 28.31 feet bearing South 45°18'39" East to a point of tangency; thence
South 00°15'22" East 277.74 feet to a ½ inch iron rod; thence
North 90°00'00" West 293.79 feet to a ½ inch iron rod on said West line of Lot 7; thence along said West line
North 00°15'40" West 295.90 feet to the POINT OF BEGINNING.

PARCEL 15:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 7, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 7 from which an aluminum cap monument marking the Southeast corner of said Southeast bears North 89°31'47" East 672.64 feet; thence along the West line of said Lot 7

North 00°15'40" West 338.18 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 293.79 feet to a ½ inch iron rod; thence
South 00°15'22" East a distance of 13.79 feet to a ½ inch iron rod and a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.45 feet through a central angle of 315°45'13" and whose long chord bears South 21°52'03" West 15.06 feet to a point of reverse curvature; thence
Along the arc of a 50.00 foot radius curve to the left 117.36 feet through a central angle of 225°31'04" and whose long chord bears South 23°00'54" East 92.21 feet to a ½ inch iron rod on the East line of said Lot 7; thence along said East line
South 00°15'40" East 222.88 feet to a ½ inch iron rod at the Southeast corner of said Lot 7; thence along the South line of said Lot 7
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 16:

LEGAL DESCRIPTION OF PARCEL A OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 8 from which the Northeast corner of said Lot 8 bears North 00°15'40" West 102.15 feet; thence along said East line
South 00°15'40" East 269.68 feet to a ½ inch iron rod; thence leaving said East line
South 89°31'49" West 273.97 feet to a point of cusp; thence
Along the arc of a 50.00 foot radius curve to the left 35.37 feet through a central angle of 40°32'03" whose long chord bears North 24°24'16" West 34.64 feet to a point of reverse curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.50 feet through a central angle of 44°24'55" whose long chord bears North 22°27'50" West 15.11 feet to a point of tangency; thence
North 00°15'22" West 326.69 feet to a ½ inch iron rod; thence
North 89°38'04" East 4.82 feet to a ½ inch iron rod; thence
South 00°15'40" East 101.40 feet to a ½ inch iron rod; thence
North 89°47'00" East a distance of 289.00 feet to the POINT OF BEGINNING.

PARCEL 17:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southeast corner of said Lot 8 from which an aluminum cap monument marking the Southeast corner of the Southeast Quarter bears North 89°31'47" East 25.00 feet; thence along the South line of said Lot 8
South 89°31'49" West 323.82 feet to a ½ inch iron rod at the Southwest corner of said Lot 8; thence leaving said South line and along the West line of said Lot 8
North 00°15'40" West 222.88 feet to a point of cusp; thence leaving said West line
Along the arc of a 50.00 foot radius curve to the left 81.93 feet through an angle of 93°52'52" and whose long chord bears North 42°46'53" East 73.039 feet to a point of intersection with a non-tangential line; thence
North 89°31'49" East 273.97 feet to a ½ inch iron rod on the East line of said Lot 8; thence along said East line
South 00°15'40" East a distance of 276.08 feet to the POINT OF BEGINNING.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sacramento

On 1/28/19 (DATE) before me, J. Chill, Notary Public (NAME, TITLE OF OFFICER-E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared, John Chandler

, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS ~~my hand~~ and official seal

J. CHILL
Notary Public - California
Sacramento County
Commission # 2218006
My Comm. Expires Oct 13, 2021

_____ (SEAL)
NOTARY PUBLIC SIGNATURE

OPTIONAL INFORMATION

THIS OPTIONAL INFORMATION SECTION IS NOT REQUIRED BY LAW BUT MAY BE BENEFICIAL TO PERSONS RELYING ON THIS NOTARIZED DOCUMENT.

TITLE OR TYPE OF DOCUMENT Warrant Deed

DATE OF DOCUMENT _____ NUMBER OF PAGES _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

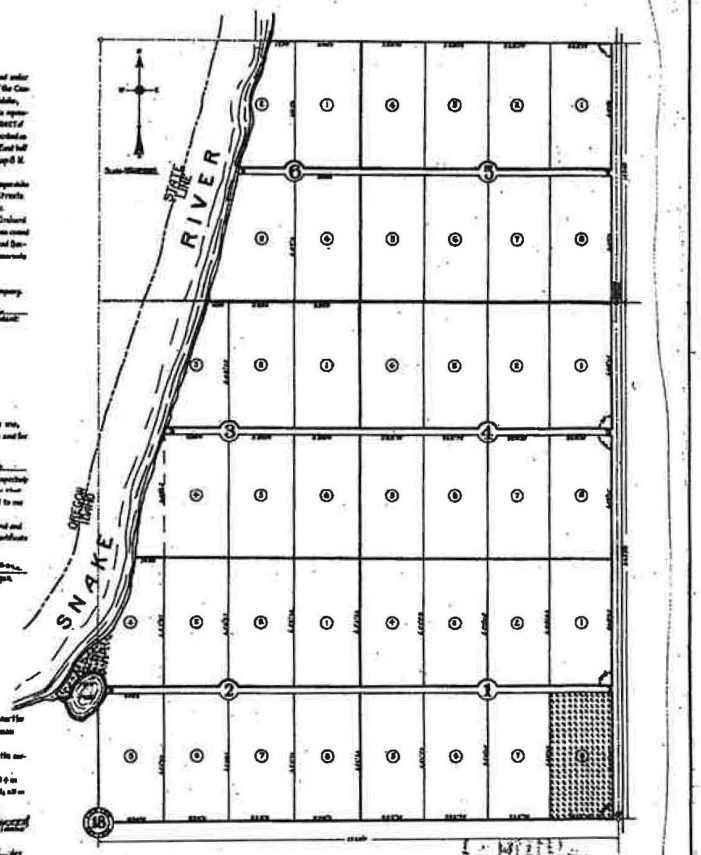
SIGNER'S NAME _____ SIGNER'S NAME _____

OMM 000033

OMM 000022

EXHIBIT 2 tabbies

ORCHARD TRACT of the OREGONIDAHO ORCHARD COMPANY.



Name All Men By These Presents:

That, Oregonidaho Orchard Company, organized under the laws of the State of Oregon, a certified copy of the Company's Charter filed with the Secretary of State of Idaho, does hereby certify that it is the owner of the lands represented on this Map and designated as ORCHARD TRACT of the OREGONIDAHO ORCHARD COMPANY and described as follows, to-wit: Lot 4 in Section 7, Lots 1 and 2, and East half of Northeast Quarter of Section 18, all in Township 8 N. Range 3 W. Boise Meridian.

And So It Further Known: That the said Oregonidaho Orchard Company does hereby dedicate all the Streets shown on this Map to the use of the Public forever.

In Witness Whereof the said Oregonidaho Orchard Company by resolution of its Board of Directors has caused these presents to be subscribed by its President and Secretary and its corporate Name and Seal to be hereunto affixed this 15 day of April, 1910.

Oregonidaho Orchard Company.

By J. Ragdell, President.

Attest: W. A. Tautash, Secretary.

State of Oregon, County of Malheur, } ss.

On this 15 day of April, 1910, before me, C. C. Wilson, a notary public in and for said County, personally appeared J. Ragdell and W. A. Tautash known to me to be the President and Secretary, respectively of Oregonidaho Orchard Company, the corporation that executed the above instrument, and acknowledged to me that such corporation executed the same.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

C. C. Wilson, Notary Public for Oregon.

State of Oregon, County of Malheur, } ss.

I, F. L. Lockwood, do hereby certify that I am the Engineer who made the survey of the subdivision shown on this Map.

And also that this Map correctly represents the survey as made by me.

The lands represented on this Map are: Lot 4 in Section 7, Lots 1 and 2, and N.E. of N.E. of Section 18, all in T. 8 N. R. 3 W. Boise Meridian, in Idaho.

Frank L. Lockwood, Civil Engineer for Idaho.

Subscribed and sworn to before me this 15 day of April, 1910.

C. C. Wilson, Notary Public for Oregon.

3-57

ORG. & IDA. ORCHARD CO. IN SEC. 7&18, T8N, R3W, B.M., DUPLICATE PLAT BOOK 3 PAGE 59

THIS IS A SINGLE 1 "7,500"

02-001

INSTRUMENT NO. 2007077756

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT
1115 Albany Street • Caldwell, Idaho • 83605 • Phone (208) 454-7458
Fax: (208) 454-6633 www.canyoncounty.org/dsd

DECISION
ADMINISTRATIVE LAND DIVISION
Canyon County Code of Ordinances 07-10-19(8)A, B, C, D

Document amendment to Instrument #2007075430

Apple Valley Development (John D. Chandler)	LS2006-13,-14,-15,-17,-19,-20,-25,-38
PROPERTY OWNER/APPLICANT	DSD CASE NUMBER

ASSESSOR ACCOUNT(S) R25091 Lots 1-8 Block 1

ADMINISTRATIVE LAND DIVISION APPLIED FOR: LESS THAN 40 ACRES (8)(B)

LS2006-25, Lot 1 Block 1
The application was to divide approximately 3.5 acres into 2 parcels described as follows:
PARCEL 1: 2.28 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 0.90 acres (shown as Parcel "B" on the attached R.O.S.) *Non-Residential Parcel until further land use is granted by governing jurisdiction.*
PARCEL 2b: 0.36 acres (shown as Parcel "B2" on the attached R.O.S.) *Non-Residential Parcel until further land use is granted by governing jurisdiction.*

LS2006-20, Lot 2 Block 1
The application was to divide approximately 5 acres into 2 parcels described as follows:

PARCEL 1: 2.00 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.59 acres (shown as Parcel "B" on the attached R.O.S.)

LS2006-38, Lot 3 Block 1
The application was to divide approximately 5 acres into 2 parcels described as follows:

PARCEL 1: 2.00 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.72 acres (shown as Parcel "B" on the attached R.O.S.)

LS2006-19, Lot 4 Block 1
The application was to divide approximately 5 acres into 2 parcels described as follows:

PARCEL 1: 2.02 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.70 acres (shown as Parcel "B" on the attached R.O.S.)

LS2006-17, Lot 5 Block 1
The application was to divide approximately 5 acres into 2 parcels described as follows:

PARCEL 1: 2.00 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.72 acres (shown as Parcel "B" on the attached R.O.S.)

LS2006-13, Lot 6 Block 1
The application was to divide approximately 5 acres into 2 parcels described as follows:

PARCEL 1: 2.02 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.70 acres (shown as Parcel "B" on the attached R.O.S.)

REQUEST [signature]
TYPE [illegible] FEE 15.00

2007 NOV 29 AM 10 51
WILLIAM H. HURST
CANYON COUNTY RECORDER
BY [signature]

RECORDED

2007077756

EXHIBIT
3

03-001

LS2006-15, Lot 7 Block 1
The application was to divide approximately 5 acres into 2 parcels described as follows:

PARCEL 1: 2.00 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.40 acres (shown as Parcel "B" on the attached R.O.S.)

LS2006-14, Lot 8 Block 1
The application was to divide approximately 3.82 acres into 2 parcels described as follows:

PARCEL 1: 1.82 acres (shown as Parcel "A" on the attached R.O.S.)
PARCEL 2: 2.00 acres (shown as Parcel "B" on the attached R.O.S.)

The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property.

The application documents, including the meets and bounds description(s) and, if applicable, the record of survey and/or perpetual easement(s) for ingress/egress evidence the land division tentatively approved. Therefore, the administrative land division is hereby approved. Idaho Right to Farm Act (Idaho Code § 22-4503) applies to this land division decision.

Kari K Smith-Blankenship 29 Nov 2007
Director / Staff Date

State of Idaho)
SS
County of Canyon County)

On this 29th day of November of 2007, personally appeared before me, Kari K. Smith-Blankenship and satisfactorily proved to me to be the signer of the above instrument by the oath of Diana Dyas, a competent and credible witness for that purpose, by me duly sworn, and that he(she) executed the same.

DIANA L. DYAS NOTARY PUBLIC STATE OF IDAHO

Notary: Diana L. Dyas
My Commission Expires: 3-28-2011

Decision in the Matter of an
Administrative Land Division

Page 2 of 2

FORM 202 Rev. 09/16

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-34840

Parcel 4

1. Name of applicant(s) One More Mile LLC Phone (541) 212-0623
   Name connector (check one): ☐ and ☐ or ☐ and/or
   Mailing address 3255 Kesler Lane City Nyssa
   State OR ZIP 97913 Email sharla@froererfarms.com
2. Name of representative, if any SPF Water Engineering Phone 208-383-4140
   Mailing address 300 E. Mallard Dr., Ste. 350 City Boise
   State ID ZIP 83706 Email lgraves@spfwater.com
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☑ Send original correspondence to the applicant and copies to the representative.
   b. ☑ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Ground Water which is a tributary of _____
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
6N	5W	18			SE	NE	Canyon	Ground Water	Parcel 4 Well

5. Water will be used for the following purposes:
   Amount 0.04 cfs (cfs or acre-feet per year) for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
   Amount 0.05 cfs (cfs or acre-feet per year) for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 0.09 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. Well, pump, pressurized system
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
   c. Proposed well diameter is 6 inches; proposed depth of well is 200 feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☑ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by CJ Date 01/02/20 Time 11:20 Preliminary che
Fee $ 100.00 Receipted by CJ Receipt No. W047960 Da

04-001

EXHIBIT 4

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
   d. Domestic; show number of households One
   e. Other; describe fully. _____

9. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	18				D													
						1.5													1.5

Total number of acres to be irrigated: 1.5

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? None

11. a. Who owns the property at the point of diversion? Applicant
    b. Who owns the land to be irrigated or place of use? Applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. As proposed, domestic use for one home and primary irrigation of 1.5 acres within a 2-acre parcel will be provided from a new well. Water bearing zone to be appropriated is from 40 to 200 feet.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Sharla Froerer
Print Name (and title, if applicable)

Signature of Applicant

Robin Froerer
Print Name (and title, if applicable)


1
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SENE
SWNW
18
6N 5W
17
NWSE
NESE
Legend
Parcel 4 pod
Parcel 4 pou
River Bluff Development
SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156
One More Mile LLC
Application for Permit
Parcel 4, River Bluff Development
DATE: 11/27/2019
CREATOR: LGraves
PROJECT: 1520.0010
N
W
E
S
Absolute Scale: 1:4,164
0 125 250 500
Feet
Path: S:\PROJECTS\M thru R Projects\O Projects\One More Mile LLC_IPROJECT\GIS\ArcMap_Projects\Parcel 4 map.mxd

SPF WATER ENGINEERING

December 30, 2019

RECEIVED
JAN 02 2020
WATER RESOURCES
WESTERN REGION

Patrick Kelly, Water Rights Supervisor
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: Applications for Permit (14)

Dear Patrick,

Enclosed on behalf of One More Mile LLC, are 14 *Applications for Permit,* each requesting diversion of ground water from a new well for domestic and primary irrigation uses. The 14 parcels are located within River Bluff Development near Fruitland in Canyon County. Prior to development, the property was farmed and received irrigation water from Farmers Co-op Ditch Co. Attached is a letter from the subdivided property owner and an email from the Ditch Company secretary confirming and acknowledging that surface water will not longer be delivered to the subdivided property.

Check No. 1509 for $1,400 is enclosed for the filing fees. Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Sharla Froerer
Matt Wilke

Enclosures

SPF file number: 1520.0010

300 E. Mallard Drive, Suite 350, Boise, Idaho 83706 Tel: 208-383-4140 Fax: 208-383-4156

From: Netty Enrico <fcdc1875@gmail.com>
Sent: Friday, December 20, 2019 10:59 AM
To: Matt Wilke <matt@mywhitebarn.com>
Subject: RE: River Bluff Development / Remove surface water

Matt,

One More Mile holds the water shares for this parcel. You should get a letter from him. We have no control as to where he irrigates in our district.

Netty Davis,
District Secretary/Treasurer
Riverside Irrigation District, Ltd. &
Farmers' Co-Operative Ditch Co.
208-722-2010

From: Matt Wilke [mailto:matt@mywhitebarn.com]
Sent: Friday, December 20, 2019 9:51 AM
To: fcdc1875@gmail.com
Cc: April Wilke <april@mywhitebarn.com>
Subject: River Bluff Development / Remove surface water

Good Morning Netty,

I was wondering if I could get a letter from you stating that surface water will no longer be applied to the 14 Parcels of development ground for One More Mile LLC (Froerers).

I forwarded the E-Mail from Lori Graves at SPF showing the work being done on the water rights to Irrigate out of the well. We will send your letter to IDWR with the applications.

Thanks Netty!

Matt Wilke
Farm and Land Specialist | REALTOR®
White Barn Real Estate
Mills & Co. Realty Inc.
208.412.9803
matt@mywhitebarn.com
www.mywhitebarn.com

Authentisign ID: 23366CAB-28E4-4746-98D5-65E63FAA44E7

To whom it may concern,

One More Mile LLC intends to use the water shares from Farmers' Co-Operative Ditch Company that were in use on 14 parcels of land, legally described in Exhibit A, shown on the Record of Survey in Exhibit B, elsewhere in the irrigation district, or sell them.

Thank you,

Authentisign

12/27/2019 1:28:54 PM MST

Date: 12/27/2019

Authentisign

Craig S Froerer

12/27/2019 2:11:24 PM MST

Date: 12/27/2019

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

Exhibit A Consisting of 8 Pages

PARCEL 4:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2,

[SR] [CSF]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 2 from which the Southwest corner thereof bears South 00°15'40" East 15.00 feet; thence along said West line
North 00°15'40" West 285.87 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 2; thence along said East line
South 00°15'40" East a distance of 97.70 feet to a ½ inch iron rod and a point of cusp; thence leaving said East line and
Along the are of a 85.00 foot radius curve to the left 73.70 feet through a central angle of 49°40'47" and whose long chord bears South 24°34'44" West 71.41 feet to a point of tangency; thence
South 00°15'40" East 101.38 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.38 feet through a central angle of 89°53'45" and whose long chord bears South 44°41'12" West 28.26 feet to a point of tangency; thence along a line 15.00 feet distant and to the North of the South line of said Lot 2, when measured perpendicular thereto
South 89°38'05" West 273.86 feet to the POINT OF BEGINNING.

PARCEL 5:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 2; thence along the North line of said Lot 2
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 2; thence leaving said North line and along the East line of said Lot 2
South 00°15'40" East 349.70 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West a distance of 323.82 feet to a ½ inch iron rod on the West line of said Lot 2; thence along said West line
North 00°15'40" West 348.22 feet to the POINT OF BEGINNING.

PARCEL 6:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3,

[SK] [CSF]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 3 from which the Southeast corner of said Lot 3 bears South 00°15'40" Fast 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 3 when measured perpendicular thereto
South 89°38'04" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 3; thence along said West line
North 00°15'40" West 270.10 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 3; thence along said East line
South 00°15'40" East 268.037 feet to the POINT OF BEGINNING.

PARCEL 7:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 3; thence along the North line of said Lot 3
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 3; thence leaving said North line and along the East line of said Lot 3
South 00°15'40" East 366.05 feet to a ½ inch iron rod; thence
North 90°00'00" West 323.82 feet to a ½ inch iron rod; thence
North 00°15'40" West 364.58 feet to POINT OF BEGINNING.

PARCEL 8:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 4 from which the Southeast corner of said Lot 4 bears South 00°15'40" East 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 4 when measured perpendicular thereto

[SK] [CSF]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

South 89°38'04" West 323.81 to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 272.17 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 4; thence
South 00°15'40" East a distance of 270.10 feet to the POINT OF BEGINNING.

PARCEL 9:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 4; thence along the North line of said Lot 4
North 89°44'20" East 323.81 feet to a ½ inch iron rod at the Northeast corner of said Lot 4; thence leaving said North line and along the East line of said Lot 4
South 00°15'40" East 364.58 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 363.10 feet to the POINT OF BEGINNING.

PARCEL 10:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 5, BLOCK I, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 5 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 5 when measured perpendicular thereto
North 89°38'04" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 5; thence along said East line
South 00°15'40" East 270.11 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 5; thence along said West line
North 00°15'40" West 268.04 feet to the POINT OF BEGINNING.

[SR] [CSR]

AuthentiSign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

PARCEL 11:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 5, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 5 from which an aluminum cap monument marking the Southeast corner of said Southeast Quarter bears North 89°31'47" East 1320.27 feet; thence along the West line of said Lot 5
North 00°15'40" West 367.22 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod to the East line of said Lot 5; thence along said East line
South 00°15'40" East a distance of 364.57 feet to a ½ inch iron rod on the South line of said Lot 5; thence along said South line
South 89°31'49" West 323.81 feet to the POINT OF BEGINNING.

PARCEL 12:

LEGAL DESCRIPTION OF PARCEL A OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 6 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 6 when measured perpendicular thereto
North 89°38' 04" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East 272.18 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 6; thence along said West line
North 00°15'40" West a distance of 270.11 feet to the POINT OF BEGINNING.

PARCEL 13:

[58] [057]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

LEGAL DESCRIPTION OF: PARCEL B OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod marking the Southwest corner of said Lot 6 from which an aluminum cap monument marking the Southeast corner of the aforementioned Southeast Quarter bears North 89°31'47" East 996.46 feet; thence along the West line of said Lot 6
North 00°15'40" West 364.57 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East a distance of 361.91 feet to a ½ inch iron rod on the South line of said Lot 6; thence along said South line
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 14:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 7, BLOCK 1, ORCHARD TRACTS OF THE ORECON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 7 from which the Northwest corner thereof bears North 00°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 7 when measured perpendicular thereto
North 89°38'04" East 273.84 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.45 feet through a central angle of 269°53'27" and having a long chord of 28.31 feet bearing South 45°18'39" East to a point of tangency; thence
South 00°15'22" East 277.74 feet to a ½ inch iron rod; thence
North 90°00'00" West 293.79 feet to a ½ inch iron rod on said West line of Lot 7; thence along said West line
North 00°15'40" West 295.90 feet to the POINT OF BEGINNING.

PARCEL 15:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 7, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

[SR] [CSF]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 7 from which an aluminum cap monument marking the Southeast corner of said Southeast bears North 89°31'47" East 672.64 feet; thence along the West line of said Lot 7

North 00°15'40" West 338.18 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 293.79 feet to a ½ inch iron rod; thence
South 00°15'22" East a distance of 13.79 feet to a ½ inch iron rod and a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.45 feet through a central angle of 315°45'13" and whose long chord bears South 21°52'03" West 15.06 feet to a point of reverse curvature; thence
Along the arc of a 50.00 foot radius curve to the left 117.36 feet through a central angle of 225°31'04" and whose long chord bears South 23°00'54" East 92.21 feet to a ½ inch iron rod on the East line of said Lot 7; thence along said East line
South 00°15'40" East 222.88 feet to a ½ inch iron rod at the Southeast corner of said Lot 7; thence along the South line of said Lot 7
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 16:

LEGAL DESCRIPTION OF PARCEL A OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 8 from which the Northeast corner of said Lot 8 bears North 00°15'40" West 102.15 feet; thence along said East line
South 00°15'40" East 269.68 feet to a ½ inch iron rod; thence leaving said East line
South 89°31'49" West 273.97 feet to a point of cusp; thence
Along the arc of a 50.00 foot radius curve to the left 35.37 feet through a central angle of 40°32'03" whose long chord bears North 24°24'16" West 34.64 feet to a point of reverse curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.50 feet through a central angle of 44°24'55" whose long chord bears North 22°27'50" West 15.11 feet to a point of tangency; thence
North 00°15'22" West 326.69 feet to a ½ inch iron rod; thence
North 89°38'04" East 4.82 feet to a ½ inch iron rod; thence
South 00°15'40" East 101.40 feet to a ½ inch iron rod; thence
North 89°47'00" East a distance of 289.00 feet to the POINT OF BEGINNING.

PARCEL 17:

[SR] [CSR]

Authentisign ID: 23365CAB-28E4-4746-98D5-65E63FAA44E7

LEGAL DESCRIPTION OF: PARCEL B OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

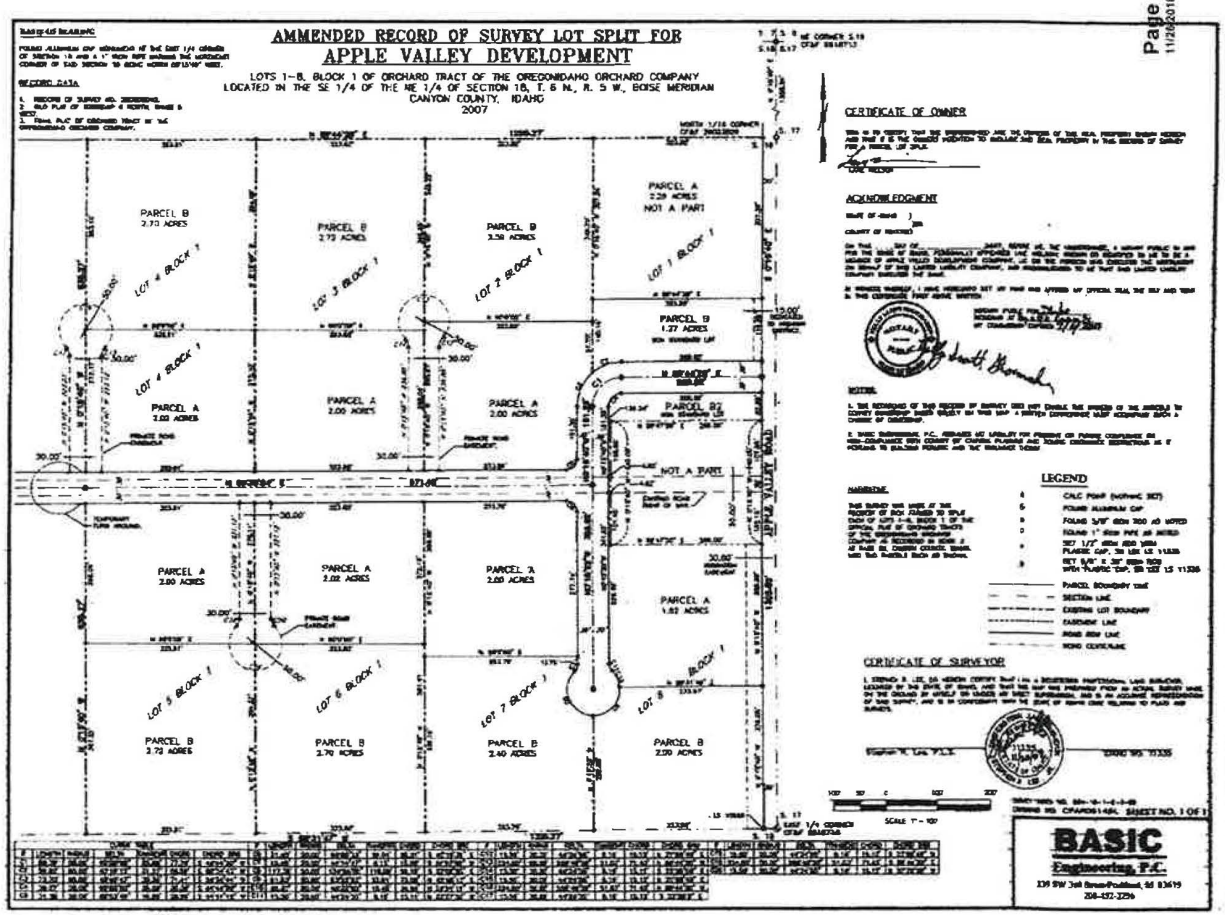
A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southeast corner of said Lot 8 from which an aluminum cap monument marking the Southeast corner of the Southeast Quarter bears North 89°31'47" East 25.00 feet; thence along the South line of said Lot 8
South 89°31'49" West 323.82 feet to a ½ inch iron rod at the Southwest corner of said Lot 8; thence leaving said South line and along the West line of said Lot 8
North 00°15'40" West 222.88 feet to a point of cusp; thence leaving said West line
Along the arc of a 50.00 foot radius curve to the left 81.93 feet through an angle of 93°52'52" and whose long chord bears North 42°46'53" East 73.039 feet to a point of intersection with a non-tangential line; thence
North 89°31'49" East 273.97 feet to a ½ inch iron rod on the East line of said Lot 8; thence along said East line
South 00°15'40" East a distance of 276.08 feet to the POINT OF BEGINNING.

INSTRUMENT NO.
2067076627

NOT OFFICIAL
SEE ORIGINAL IN RECORDER'S
OFFICE

Exhibit B



NOT OFFICIAL
SEE ORIGINAL IN RECORDER'S
OFFICE

Authentisign ID: 23365CAB-28E4-4748-98D5-65E63FAA44E7

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082
Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

January 9, 2020

ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054

Application For Permit No. 63-34840, 63-34841, 63-34842, 63-34843, 63-34844, 63-34845, 63-34846, 63-34832, 63-34833, 63-34834, 63-34835, 63-34836, 63-34837, and 63-34838

Dear Applicants:

The Department of Water Resources has received your water right applications. Please refer to the numbers referenced above in all future correspondence regarding these applications.

A legal notice of the applications has been prepared and is scheduled for publication in the PRESS TRIBUNE on 1/16/2020 and 1/23/2020. Protests to these applications may be submitted for a period ending ten (10) days after the second publication.

If the application are protested, you will be sent a copy of each protest. All protests must be resolved before the applications can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the applications are not protested, the Department will process your applications and notify you of any action taken on the applications. If your applications are approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding these applications.

Sincerely,

Kensie Thorneycroft
Administrative Assistant

CC:
SPF WATER ENGINEERING LLC

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region • 2735 Airport Way • Boise, Idaho 83705-5082
Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 8, 2020

FARMERS COOPERATIVE DITCH CO
PO BOX 69
PARMA ID 83660

Application For Permit No. 63-34840, 63-34841, 63-34842, 63-34843, 63-34844, 63-34845, 63-34846, 63-34832, 63-34833, 63-34834, 63-34835, 63-34836, 63-34837, and 63-34838

Dear Interested Party:

The above referenced applications may be of interest to you. I would like to inform you that the applications have been submitted to the Canyon County *ID Press Tribune* for advertising. I enclosed a copy of each application for your convenience. This information is also available on our website www.idwr.idaho.gov.

If you wish to formally protest the approval of the applications, you must submit a protest with the $25.00 protest fee to this office by **5:00 p.m., February 03, 2020**. You must also send a copy of your protest to the applicant.

If you have any questions regarding these applications, please contact this office at 208-334-2190.

Sincerely,

Kensie Thorneycroft
Administrative Assistant
Western Regional Office

Enclosures

Thorneycroft, Kensie

From: Thorneycroft, Kensie
Sent: Thursday, January 09, 2020 2:35 PM
To: 'IDAHO PRESS-TRIBUNE'
Subject: Canyon Legal Notice
Attachments: Cover Letter.docx; Legal Notice.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning Legal Clerk,

I am sending you the new legal notices, please send confirmation to my email.

Please see the attached ad for publication on 01/16/2020 & 01/23/2020.

Please confirm these are okay to publish as shown.

Kensie Thorneycroft
Administrative Assistant 1
Idaho Dept. of Water Resources
208-334-2190

January 9, 2020

LEGAL NOTICE DEPARTMENT

PRESS TRIBUNE
PO BOX 9399
NAMPA, ID 83652

RE: Application For Permit No.(s): 63-34832, 63-34833, 63-34834, 63-34835, 63-34836, 63-34837, 63-34838, 63-34840, 63-34841, 63-34842, 63-34843, 63-34844, 63-34845, 63-34846, 63-34847

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 2/3/2020. Your cooperation is appreciated.

Sincerely,
Kensie Thorneycroft
Administrative Assistant

Enclosure(s)

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34832
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34833
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34834
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34835
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34836
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.06 CFS

Total Diversion: 0.1 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.9
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34837
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.04 CFS
Total Diversion: 0.08 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.3
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34838
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34840
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34841
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.06 CFS
Total Diversion: 0.1 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.1
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34842
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34843
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.2
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34844
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34845
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.07 CFS
Total Diversion: 0.11 CFS
Date Filed: 1/2/2020
Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 2.2
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34846
ONE MORE MILE LLC
3255 KESLER LN
NYSSA, OR 97913-5054
Point of Diversion SENE S18 T06N R05W CANYON County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Total Diversion: 0.09 CFS
Date Filed: 1/2/2020

Place Of Use: DOMESTIC, IRRIGATION
T06N R05W S18 SENE
Total Acres: 1.5
Water bearing zone to be appropriated is from 40 to 200 feet.

63-34847
MICHAEL R GOODELL
14899 SAND HOLLOW RD
CALDWELL, ID 83607-7537
Point of Diversion NWSW S10 T05N R03W CANYON County Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 1 CFS
Date Filed: 1/2/2020
Place Of Use: IRRIGATION
T05N R03W S10 NESW NWSW SWSW SESW
T05N R03W S15 NWNE SWNE NENW NWNW SENW
Total Acres: 130
Water bearing zone to be appropriated is from 300 to 420 feet.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see **www.idwr.idaho.gov.** Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of $25.00 for each application on or before 02/03/2020 The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director Published on 1/16/2020 and 1/23/2020

MEMORANDUM

January 08, 2020

Application for Permit: 63-34840

Author: abradbury

Subject: Legal Notice Remarks

Water bearing zone to be appropriated is from 40 to 200 feet.

MEMORANDUM

DATE: February 22, 2008 Amended Application Processing No. 59

TO: Water Management Division

FROM: Gary Spackman

RE: Processing of Applications to Appropriate Water in the Lower Boise River Basin

---

This memorandum replaces the original Application Processing Memorandum No. 59 issued in 1996.

Until further instructions are given, the following provisions apply to the processing of applications to appropriate water in the Boise River Basin (Administrative Basin 63) downstream from Lucky Peak dam.[1]

1. Surface water in the Boise River or tributary to the Boise River upstream from Star Bridge is fully appropriated during the irrigation season and during much of the rest of the year. As stated in the May 3, 1995, Amended Moratorium Order for the Boise River drainage:

   > Applications which propose use of surface water upstream from Star Bridge will be denied unless the applicant files an acceptable plan to mitigate or avoid any material injury to existing water rights.

2. Surface water in the Boise River or tributary to the Boise River downstream from Star Bridge is generally available for appropriation. Applications to appropriate surface water in this reach shall be evaluated on a case-by-case basis in accordance with applicable Idaho law and the Water Appropriation Rules.

3. The map on page 4 depicts an area in which ground water shallower than 200 feet below ground surface is probably tributary to the Boise River upstream from Star Bridge. New applications for consumptive uses of ground water in this area, including applications for municipal purposes, should be held without further processing unless one or more of the following conditions applies:

   A. The applicant demonstrates that the holders of water rights to divert from the Boise River will not be injured by the proposed appropriation or the applicant files an acceptable plan to mitigate for a water use that would otherwise cause injury to existing water rights from the Boise River.

---

[1] For guidance regarding applications to appropriate water upstream from Lucky Peak Dam, see Application Processing Memorandum No. 13.



B. The application seeks the appropriation of ground water for domestic purposes as such term is defined in Idaho Code § 42-111.

C. The application seeks the appropriation of ground water for multiple ownership subdivisions or mobile home parks in which each unit satisfies the definition for the exemption of requirement to file an application for permit as described in Idaho Code § 42-111.

D. The application proposes to appropriate ground water deeper than 200 feet below ground surface. Applications meeting this criterion shall be evaluated on a case-by-case basis in accordance with applicable Idaho law, the Water Appropriation Rules, and the May 3, 1995, Amended Moratorium Order for the Boise River drainage.

4. Applications to appropriate ground water outside the area depicted in the attached map shall be evaluated on a case-by-case basis in accordance with applicable Idaho law, the Water Appropriation Rules, and the May 3, 1995, Amended Moratorium Order for the Boise River drainage.

5. The May 3, 1995, Amended Moratorium Order for the Boise River drainage states that the advertisement for each ground water application shall include the proposed depth interval from which the applicant wants to withdraw water. IDWR will adhere to this advertising directive. However, the depth interval shall be required in the conditions of approval for permits only within the area where ground water shallower than 200 feet below ground surface is tributary to the Boise River, as shown on the attached map, or when otherwise deemed necessary by IDWR on a case-by-case basis. In the area where ground water shallower than 200 feet below ground surface is tributary to the Boise River, the depth interval shall be included in the conditions of approval for each ground water permit, regardless of whether the proposed depth is more or less than 200 feet below ground surface.

6. IDWR has established two ground water management areas, the Boise Front GWMA and the Southeast Boise GWMA, in the Boise River Basin. (See the map on page 4.) These instructions do not change, affect, or override instructions or management plans issued for the administration of water within any Ground Water Management Area or Critical Groundwater Area that is designated or may be designated within the Boise River Basin.

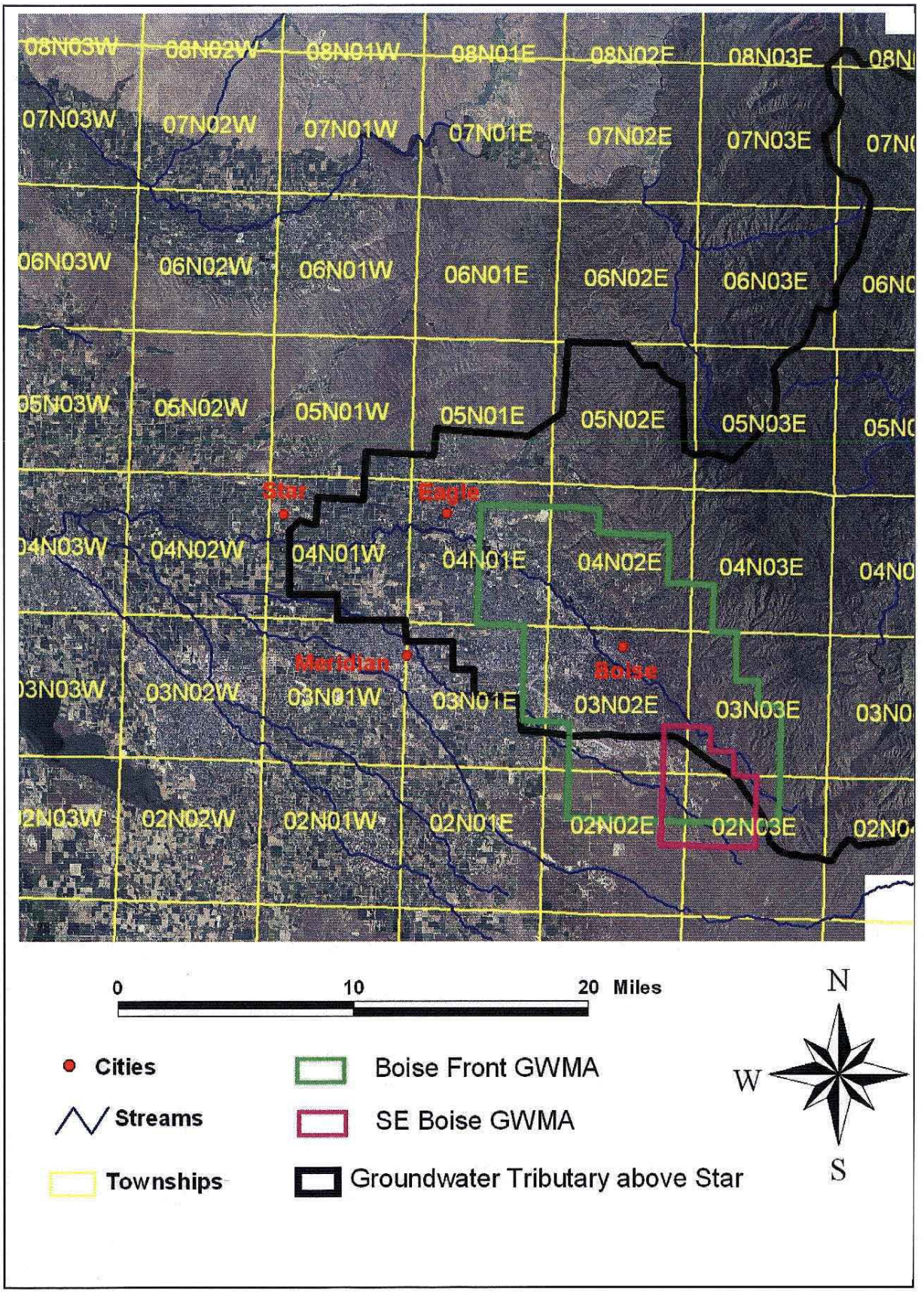
7. These instructions do not prevent the Director from reviewing for approval on a case-by-case basis an application which otherwise would not be processed and/or approved at this time if:

A. The public interest, as determined by the Director, requires immediate consideration of approval of the application, or

B. The Director determines that the development and use of the water pursuant to an application will have no effect on prior surface and ground water rights because of its location, insignificant consumption of water, or mitigation provided by the applicant to offset injury to other rights.

8. Applications being held pursuant to the previous version of this memorandum shall be processed in accordance with this memorandum as time, resources, and competing priorities allow. The "thirty (30) applications for permit per month" limitation in the May 3, 1995, Amended Moratorium Order can be exceeded.

Map Depicting the Area in which Ground Water Shallower than 200 Feet Below Ground Surface is Tributary to the Boise River Upstream from Star Bridge.



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMITS FOR THE DIVERSION AND USE OF SURFACE AND GROUND WATER WITHIN THE BOISE RIVER DRAINAGE AREA	)))))	AMENDED MORATORIUM ORDER

The Director of the Department of Water Resources, having responsibility for the administration of the appropriation of the water of the state of Idaho, the protection of rights to the use of water within the state, the protection of the public interest in the waters of the state, and the conservation of the water resources of the state, enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On May 15, 1992, the Director issued a moratorium order under the authority of Section 42-1805, Idaho Code, against the approval of new appropriations of water in the Snake River Basin upstream from the U.S.G.S. gaging station at Weiser, Idaho. On January 6, 1993, the Director amended the moratorium order to eliminate the non-trust water area from which water is tributary to the Snake River upstream from Milner Dam from the scope of the May 15, 1992 moratorium order. On April 30, 1993, the Director again amended the moratorium order to remove some additional river basins and areas from the moratorium. Conditions have since changed making further amendment of the April 30, 1993 order appropriate.

2. The term "Boise River Drainage Area" means hydrologic basin No. 63 as designated in department records.

3. The department has conducted an extensive evaluation of the surface and ground water supplies of the Boise River Drainage Area and has found that water supplies appear adequate to allow further appropriations. Public interest surveys demonstrate that while the public desires a continuation of water supply studies, monitoring and water quality protection, most people sense that water supplies within the area are not being fully utilized.

4. Within the Boise River Drainage Area, the department has identified the following specific areas where water supplies are limited: the Boise Front Low Temperature Geothermal Ground Water Management Area, the Southeast Boise Ground Water Management Area, and the surface water system upstream from Lucky Peak Dam. In addition some streams and aquifers



have limited water supplies during specified periods or in specified locations.

5. Standard application processing provides that each new application for a water right permit is advertised to allow public scrutiny, and is reviewed for adequacy by department staff. Applications, which propose to divert from limited water sources or in excessive quantities, can be either denied or restricted on a case-by-case basis.

CONCLUSIONS OF LAW

1. The Director of the Department of Water Resources is responsible for administration of the appropriation and use of the water of the state of Idaho. Section 42-202, Idaho Code, reads in pertinent part:

> For the purpose of regulating the use of the public waters and of establishing by direct means the priority right to such use, any person, association or corporation hereafter intending to acquire the right to the beneficial use of the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, shall, before commencing of the construction, enlargement or extension of the ditch, canal, well, or other distributing works, or performing any work in connection with said construction or proposed appropriation or the diversion of any waters into a natural channel, make an application to the department of water resources for a permit to make such appropriation.

2. The Director of the Department of Water Resources is authorized under the provisions of Section 42-1805(7), Idaho Code, as follows:

> After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

3. Rule 55. of the Water Appropriation Rules of the Department of Water Resources provides that a moratorium on processing of applications for permit shall be entered by issuance of an order of the Director of the Department of Water Resources, IDAPA 37.03.080.55. Notice of the order shall be sent by certified mail to affected applicants and permit holders and by publishing a legal notice in newspapers of general circulation in the area.

4. The department should amend the moratorium order issued on April 30, 1993, to remove the Boise River Drainage Area from the moratorium, subject to conditions designed to provide protection to existing water users within the basin, and ensure that water quality factors are fully considered.

ORDER

IT IS, THEREFORE HEREBY ORDERED that the prior order of the department dated May 15, 1992, as amended January 6, 1993, and April 30, 1993, in connection with the Snake River Basin upstream from the U.S.G.S. gaging station at Weiser, Idaho is modified by this Amended Moratorium Order.

IT IS, FURTHER HEREBY ORDERED that the moratorium is removed from the Boise River Drainage Area, and that applications for permit filed within this area shall be subject to the following provisions:

1. This moratorium removal does not change or affect the administration of any area within the Boise River Drainage Area that has been previously designated as a ground water management area pursuant to Section 42-233b, Idaho Code.

2. Processing of applications for permit within the Boise River Drainage Area that had been withheld by the moratorium shall proceed at a rate not to exceed thirty (30) applications for permit per month, in priority date order. All applications for which the applicants desire to proceed shall be advertised, or readvertised if notice has previously been made. The advertisement for each application which indicates the intended water source to be ground water shall include an indication of the proposed depth interval from which the applicant proposes to withdraw water by means of a well.

3. Applications, which indicate the intended source to be ground water, shall be further reviewed and screened within the department. During this review, the water right application shall be considered along with the well drilling application, if applicable. The review may result in conditions of approval to: (a) prevent development and use of water from any known water-limited aquifers, (b) prevent material injury to prior surface and ground water rights, (c) encourage use of lower-quality water for irrigation and higher-quality water for domestic purposes, (d) enhance protection of water quality in the aquifer, (e) ensure that subdivision proposals for presently irrigated land consider the need for the continuation of aquifer recharge, (f) require wells to be constructed to a sufficient depth to withstand expected fluctuations in the ground water level caused by drought, conservation or other factors, and (g) well location (spacing) requirements to prevent direct lowering of water levels in nearby existing wells.

4. Applications which propose use of surface water upstream from the Star Bridge will be denied unless the applicant files an acceptable plan to mitigate or avoid any material injury to existing water rights.

5. Applications that are protested shall be processed in accordance with the Rules of Procedure of the Department of Water Resources, IDAPA 37.01.01.

IT IS FURTHER ORDERED that this order shall not affect the moratorium on appropriation of surface and ground water within the Eastern Snake Plain Aquifer, which moratorium was extended by legislative action through December 31, 1997, and all requirements of the April 30, 1993 order with respect to the Eastern Snake Plain Aquifer remain fully in effect until modified by subsequent order of the Director of the Idaho Department of Water Resources.

Dated this 30 day of May, 1995.

R. KEITH HIGGINSON
Director

OMM 000061
OMM 000062

Form 238-7
6/07

63

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

1. WELL TAG NO. D 0082478
Drilling Permit No. 883991
Water right or injection well #

2. OWNER:
Name Craig Froerer
Address 669 Columbia Ave.
City Nyssa State OR Zip 97913

3.WELL LOCATION:
Twp. 6 North ☒ or South ☐ Rge. 5 East ☐ or West ☒
Sec. 18 ___ 1/4 SE 1/4 NE 1/4
Gov't Lot ___ County Canyon
Lat. 43 ° 51.545 (Deg. and Decimal minutes)
Long. 116 ° 58.522 (Deg. and Decimal minutes)
Address of Well Site 500' south of River Bluff Rd. on Sunset View Rd.
(Give at least name of road • Distance to Road or Landmark) City Parma
Lot. 8 Blk. 1 Sub. Name Orchard Tract

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation ☐ Thermal ☐ Injection ☐ Other

5. TYPE OF WORK:
☒ New well ☐ Replacement well ☐ Modify existing well ☐ Abandonment ☐ Other

6. DRILL METHOD:
☒ Air Rotary ☐ Mud Rotary ☐ Cable ☐ Other

7. SEALING PROCEDURES:

Seal material	From (ft)	To (ft)	Quantity (lbs or ft³)	Placement method/procedure
3/4 Bent. Chips	0'	41'	22 bags	10" Overbore
3/4 Bent. Chips	57'	64'	6 bags	12" Underreamer

8. CASING/LINER:

Diameter (nominal)	From (ft)	To (ft)	Gauge/ Schedule	Material	Casing	Liner	Threaded	Welded
6"	+3'	137'	.250	Steel	☒	☐	☐	☒
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 137'

9. PERFORATIONS/SCREENS:
Perforations ☐ Y ☒ N Method
Manufactured screen ☒ Y ☐ N Type Johnson
Method of installation Washdown

From (ft)	To (ft)	Slot size	Number/ft	Diameter (nominal)	Material	Gauge or Schedule
144'	154'	.010	10'	5"	SS	

Length of Headpipe 10' Length of Tailpipe
Packer ☒ Y ☐ N Type K-packer

10.FILTER PACK:

Filter Material	From (ft)	To (ft)	Quantity (lbs or ft³)	Placement method

11. FLOWING ARTESIAN:
Flowing Artesian? ☐ Y ☒ N Artesian Pressure (PSIG)
Describe control device

12. STATIC WATER LEVEL and WELL TESTS:
Depth first water encountered (ft) 35' Static water level (ft) 45'
Water temp. (°F) 58° Bottom hole temp. (°F)
Describe access port Well cap

Well test:

Drawdown (feet)	Discharge or yield (gpm)	Test duration (minutes)	Test method: Pump	Bailer	Air	Flowing artesian
75'	50+ GPM	60 minutes	☐	☐	☒	☐
			☐	☐	☐	☐

Water quality test or comments: Hardness 21 PH 8.0 Iron 1.0

13. LITHOLOGIC LOG and/or repairs or abandonment:

Bore Dia. (in)	From (ft)	To (ft)	Remarks, lithology or description of repairs or abandonment, water temp.	Water Y	Water N
10"	0'	2'	Topsoil		X
10"	2'	35'	Brown Clay		X
10"	35'	41'	Sandy w/little gravel		X
6"	41'	55'	Gravel	X	
6"	55'	57'	Brown Clay		X
12"	57'	64'	Blue Clay		X
6"	64'	78'	Blue Clay		X
6"	78'	80'	Black Sand Fine 5gpm	X	
6"	80'	83'	Blue Clay		X
6"	83'	140'	Blue Clay Sand Strips	X	
6"	140'	155'	Black Sand Fine	X	

RECEIVED
MAR 14 2019
WATER RESOURCES
WESTERN REGION

Completed Depth (Measurable): 154'
Date Started: Mar 4, 2019 Date Completed: Mar 7, 2019

14. DRILLER'S CERTIFICATION:
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

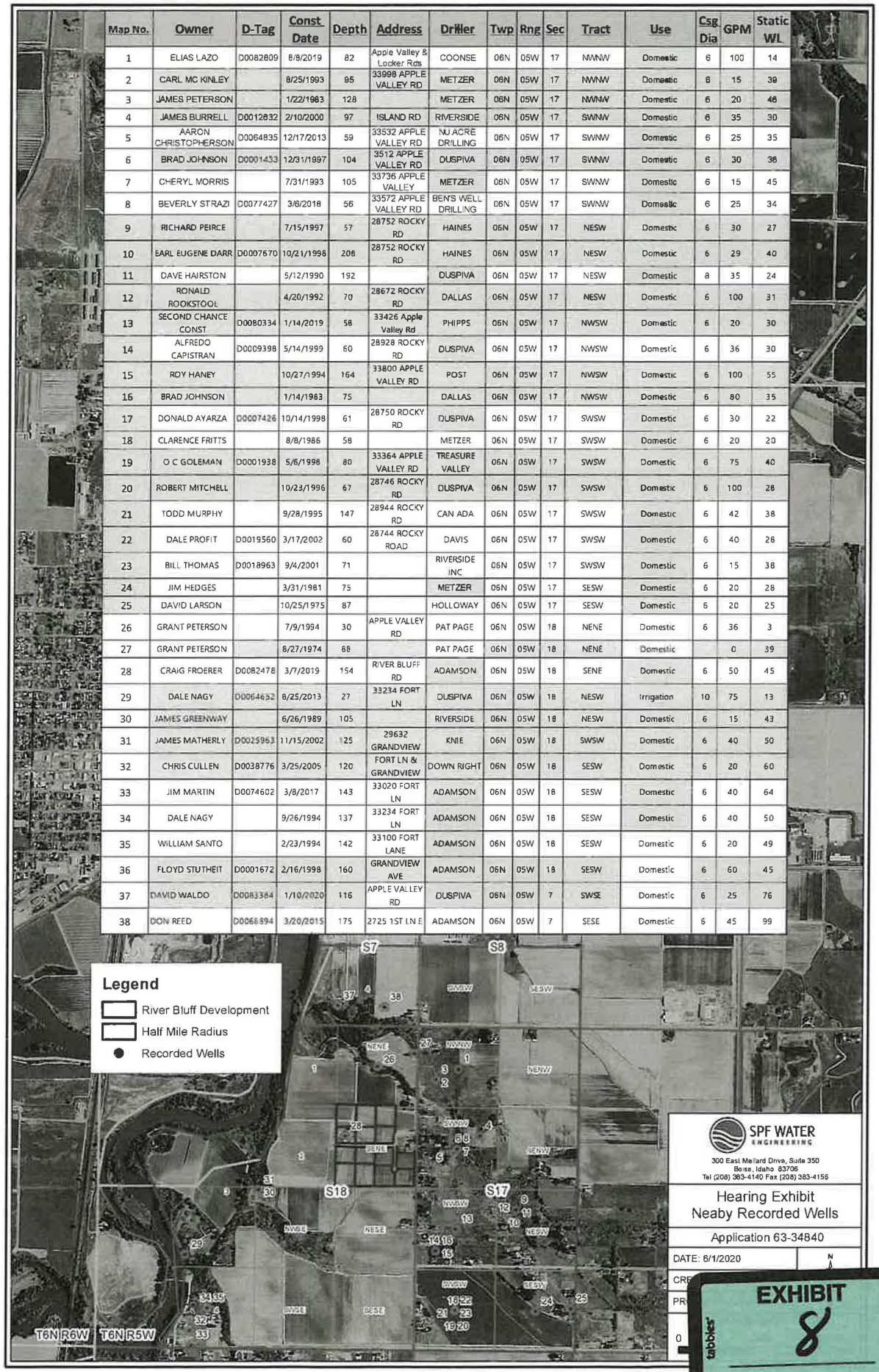
Company Name Adamson Pump & Drilling Co. No. 457
*Principal Driller Dan Adamson Date Mar 8, 2019
*Driller Josh Young Date Mar 8, 2019
*Operator II Date
Operator I Date

* Signature of Principal Driller and rig operator are required.

EXHIBIT 7
tabbies

07-001

Map No.	Owner	D-Tag	Const Date	Depth	Address	Driller	Twp	Rng	Sec	Tract	Use	Csg Dia	GPM	Static WL
1	ELIAS LAZO	D0082809	8/8/2019	82	Apple Valley & Locker Rds	COONSE	06N	05W	17	NWNW	Domestic	6	100	14
2	CARL MC KINLEY		8/25/1993	95	33998 APPLE VALLEY RD	METZER	06N	05W	17	NWNW	Domestic	6	15	39
3	JAMES PETERSON		1/22/1983	128		METZER	06N	05W	17	NWNW	Domestic	6	20	46
4	JAMES BURRELL	D0012832	2/10/2000	97	ISLAND RD	RIVERSIDE	06N	05W	17	SWNW	Domestic	6	35	30
5	AARON CHRISTOPHERSON	D0064835	12/17/2013	59	33532 APPLE VALLEY RD	NU ACRE DRILLING	06N	05W	17	SWNW	Domestic	6	25	35
6	BRAD JOHNSON	D0001433	12/31/1997	104	3512 APPLE VALLEY RD	DUSPIVA	06N	05W	17	SWNW	Domestic	6	30	36
7	CHERYL MORRIS		7/31/1993	105	33736 APPLE VALLEY	METZER	06N	05W	17	SWNW	Domestic	6	15	45
8	BEVERLY STRAZI	D0077427	3/6/2018	56	33572 APPLE VALLEY RD	BEN'S WELL DRILLING	06N	05W	17	SWNW	Domestic	6	25	34
9	RICHARD PEIRCE		7/15/1997	57	28752 ROCKY RD	HAINES	06N	05W	17	NESW	Domestic	6	30	27
10	EARL EUGENE DARR	D0007670	10/21/1998	208	28752 ROCKY RD	HAINES	06N	05W	17	NESW	Domestic	6	29	40
11	DAVE HAIRSTON		5/12/1990	192		DUSPIVA	06N	05W	17	NESW	Domestic	8	35	24
12	RONALD ROOKSTOOL		4/20/1992	70	28672 ROCKY RD	DALLAS	06N	05W	17	NESW	Domestic	6	100	31
13	SECOND CHANCE CONST	D0080334	1/14/2019	58	33426 Apple Valley Rd	PHIPPS	06N	05W	17	NWSW	Domestic	6	20	30
14	ALFREDO CAPISTRAN	D0009398	5/14/1999	60	28928 ROCKY RD	DUSPIVA	06N	05W	17	NWSW	Domestic	6	36	30
15	ROY HANEY		10/27/1994	164	33800 APPLE VALLEY RD	POST	06N	05W	17	NWSW	Domestic	6	100	55
16	BRAD JOHNSON		1/14/1983	75		DALLAS	06N	05W	17	NWSW	Domestic	6	80	35
17	DONALD AYARZA	D0007426	10/14/1998	61	28750 ROCKY RD	DUSPIVA	06N	05W	17	SWSW	Domestic	6	30	22
18	CLARENCE FRITTS		8/8/1986	58		METZER	06N	05W	17	SWSW	Domestic	6	20	20
19	O C GOLEMAN	D0001938	5/6/1998	80	33364 APPLE VALLEY RD	TREASURE VALLEY	06N	05W	17	SWSW	Domestic	6	75	40
20	ROBERT MITCHELL		10/23/1996	67	28746 ROCKY RD	DUSPIVA	06N	05W	17	SWSW	Domestic	6	100	28
21	TODD MURPHY		9/28/1995	147	28944 ROCKY RD	CAN ADA	06N	05W	17	SWSW	Domestic	6	42	38
22	DALE PROFIT	D0019560	3/17/2002	60	28744 ROCKY ROAD	DAVIS	06N	05W	17	SWSW	Domestic	6	40	28
23	BILL THOMAS	D0018963	9/4/2001	71		RIVERSIDE INC	06N	05W	17	SWSW	Domestic	6	15	38
24	JIM HEDGES		3/31/1981	75		METZER	06N	05W	17	SESW	Domestic	6	20	28
25	DAVID LARSON		10/25/1975	87		HOLLOWAY	06N	05W	17	SESW	Domestic	6	20	25
26	GRANT PETERSON		7/9/1994	30	APPLE VALLEY RD	PAT PAGE	06N	05W	18	NENE	Domestic	6	36	3
27	GRANT PETERSON		8/27/1974	88		PAT PAGE	06N	05W	18	NENE	Domestic		0	39
28	CRAIG FROERER	D0082478	3/7/2019	154	RIVER BLUFF RD	ADAMSON	06N	05W	18	SENE	Domestic	6	50	45
29	DALE NAGY	D0064652	8/25/2013	27	33234 FORT LN	DUSPIVA	06N	05W	18	NESW	Irrigation	10	75	13
30	JAMES GREENWAY		6/26/1989	105		RIVERSIDE	06N	05W	18	NESW	Domestic	6	15	43
31	JAMES MATHERLY	D0025963	11/15/2002	125	29632 GRANDVIEW	KNIE	06N	05W	18	SWSW	Domestic	6	40	50
32	CHRIS CULLEN	D0038776	3/25/2005	120	FORT LN & GRANDVIEW	DOWN RIGHT	06N	05W	18	SESW	Domestic	6	20	60
33	JIM MARTIN	D0074602	3/8/2017	143	33020 FORT LN	ADAMSON	06N	05W	18	SESW	Domestic	6	40	64
34	DALE NAGY		9/26/1994	137	33234 FORT LN	ADAMSON	06N	05W	18	SESW	Domestic	6	40	50
35	WILLIAM SANTO		2/23/1994	142	33100 FORT LANE	ADAMSON	06N	05W	18	SESW	Domestic	6	20	49
36	FLOYD STUTHEIT	D0001672	2/16/1998	160	GRANDVIEW AVE	ADAMSON	06N	05W	18	SESW	Domestic	6	60	45
37	DAVID WALDO	D0083384	1/10/2020	116	APPLE VALLEY RD	DUSPIVA	06N	05W	7	SWSE	Domestic	6	25	76
38	DON REED	D0068894	3/20/2015	175	2725 1ST LN E	ADAMSON	06N	05W	7	SESE	Domestic	6	45	99



SPF WATER ENGINEERING
300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

Hearing Exhibit
Neaby Recorded Wells

Application 63-34840

DATE: 6/1/2020

EXHIBIT 8

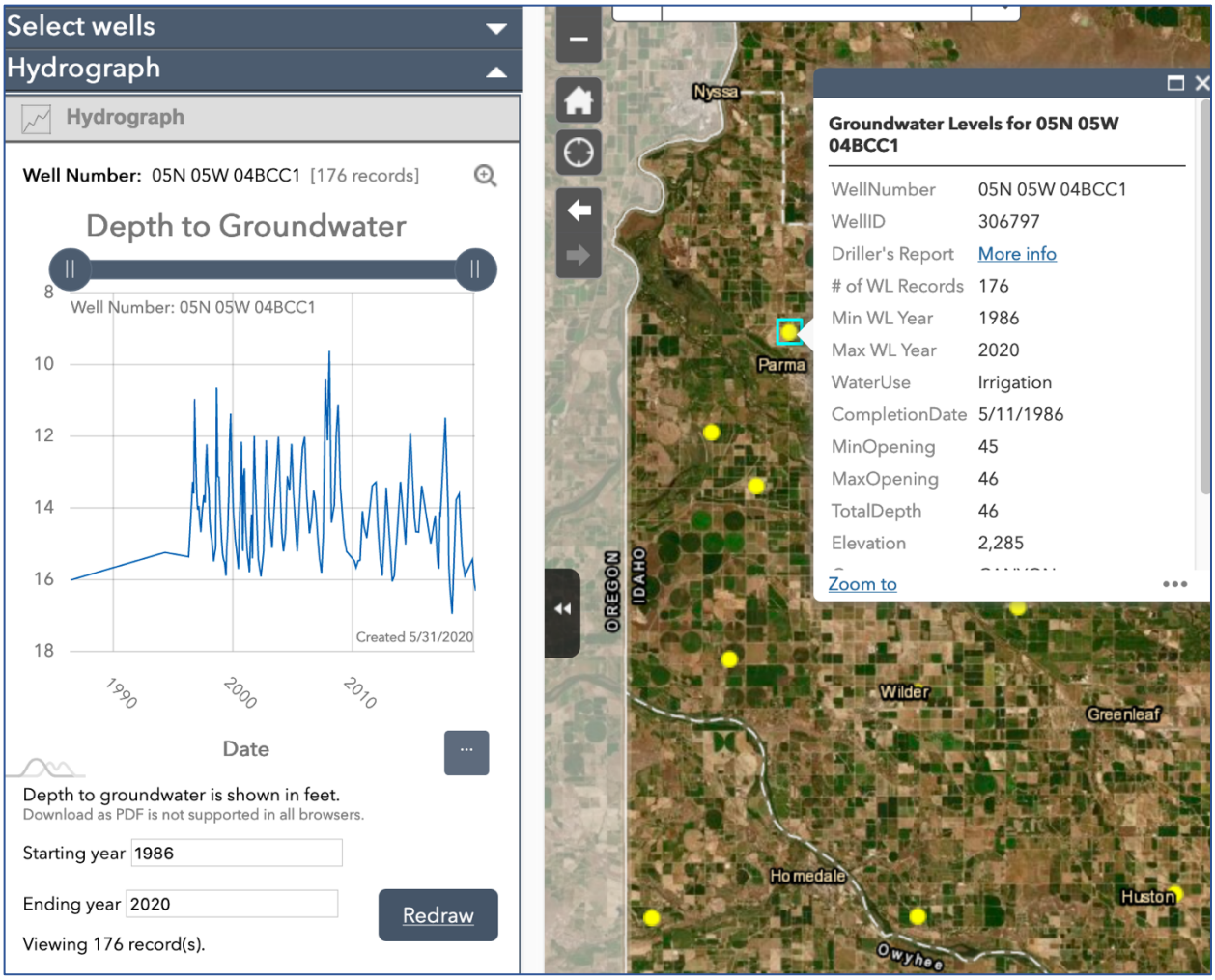
08-001

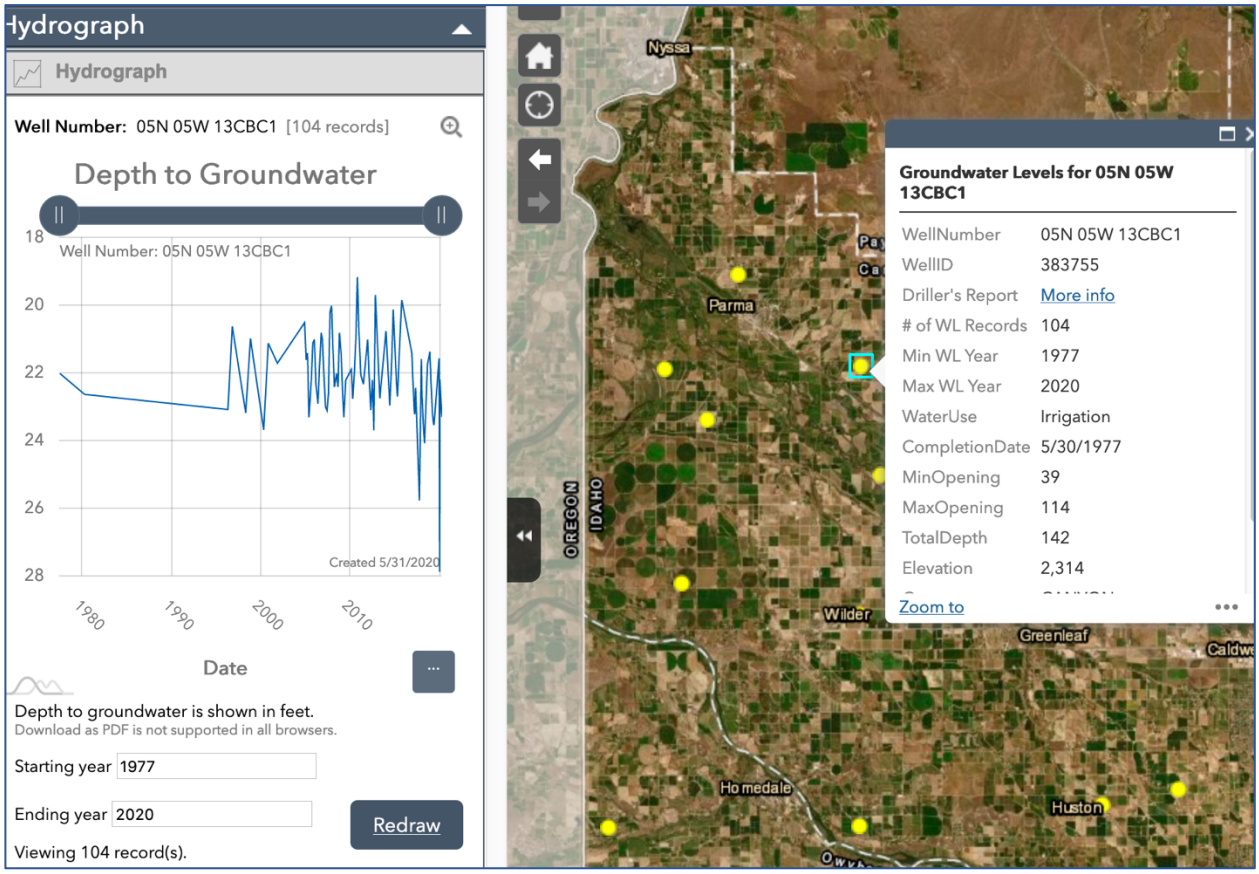
Lower Boise River Hydrographs

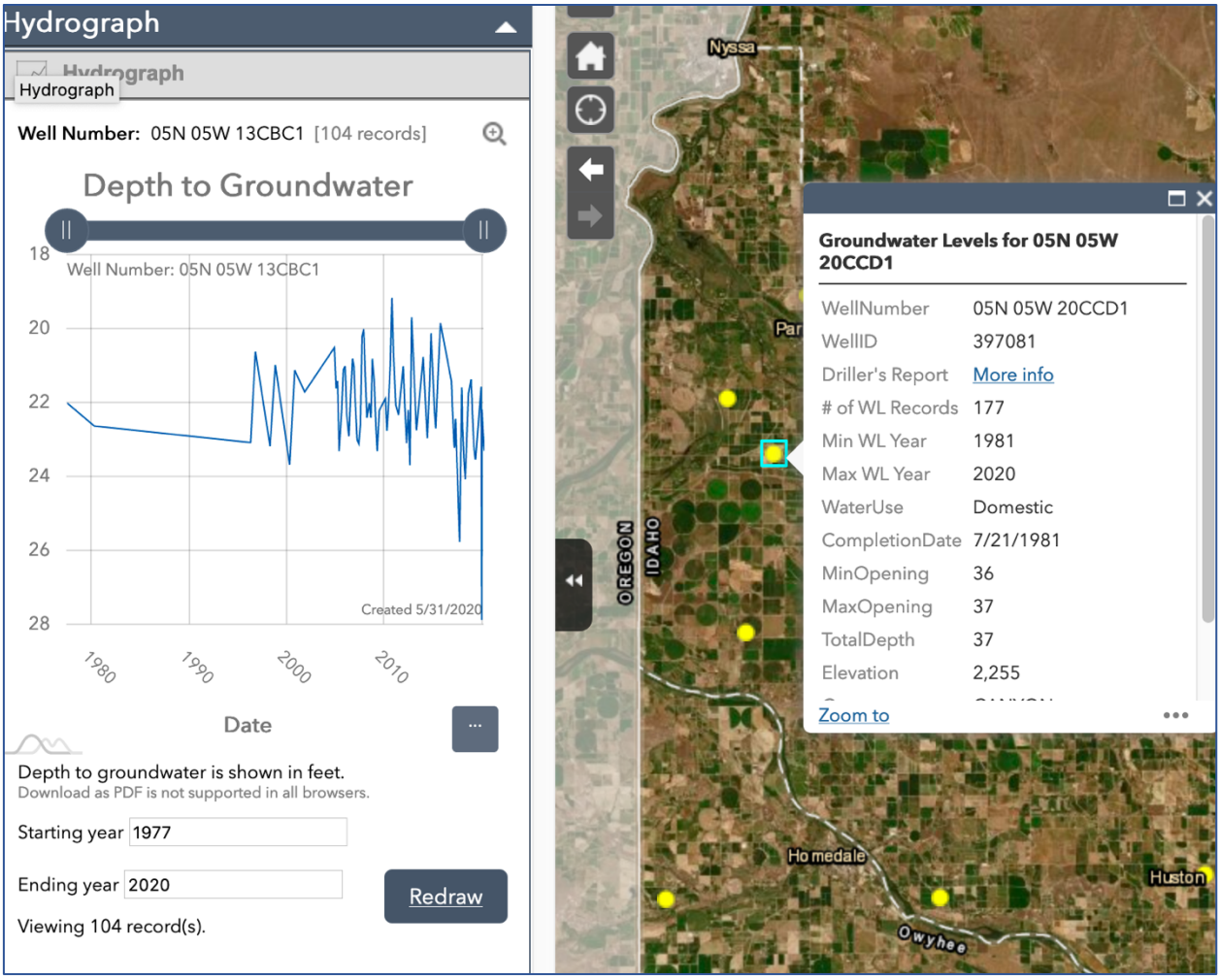


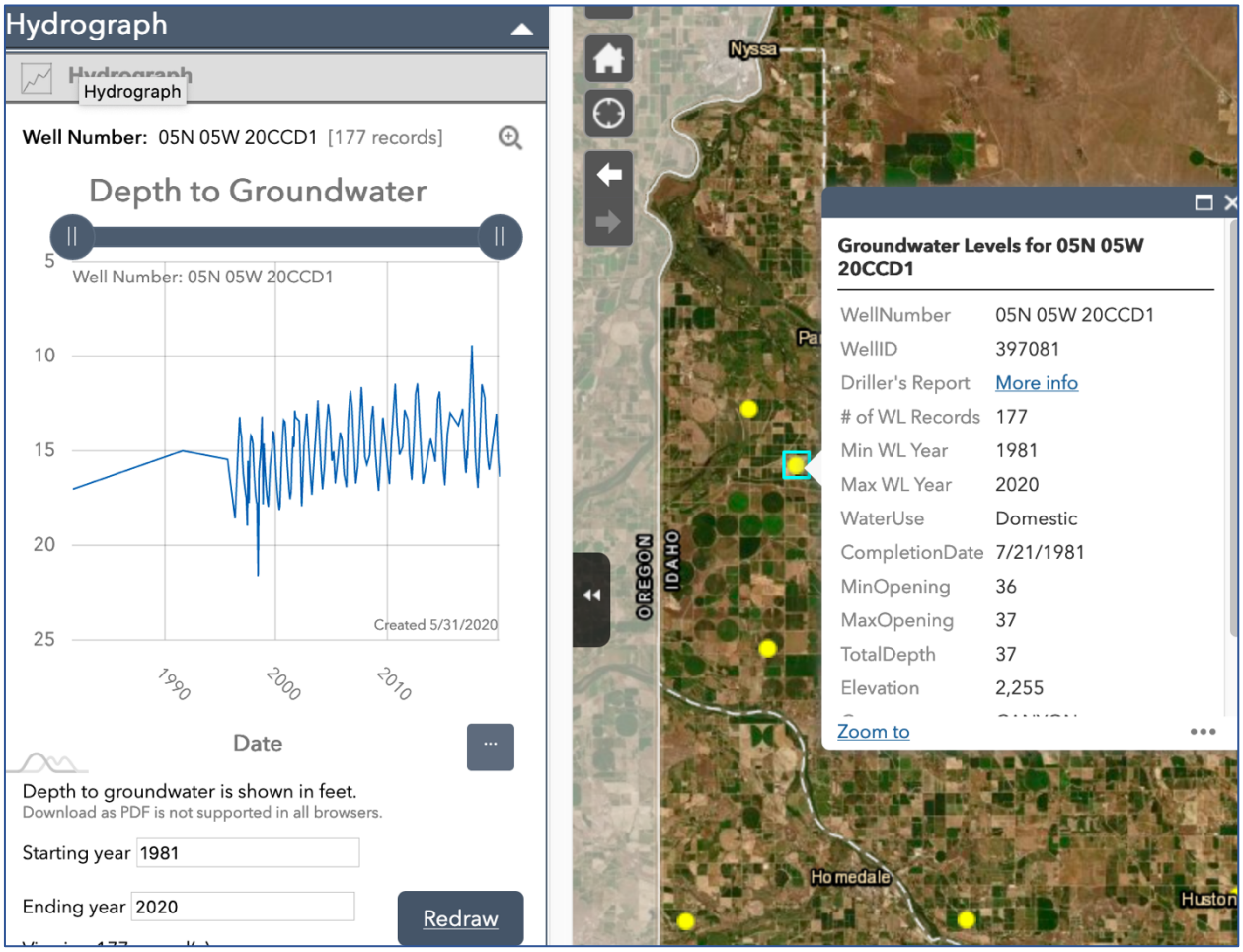
09-001

EXHIBIT 9


Select wells
Hydrograph
Hydrograph
Well Number: 05N 05W 04BCC1 [176 records]
Depth to Groundwater
Well Number: 05N 05W 04BCC1
8
10
12
14
16
18
1990
2000
2010
Created 5/31/2020
Date
Depth to groundwater is shown in feet.
Download as PDF is not supported in all browsers.
Starting year 1986
Ending year 2020
Redraw
Viewing 176 record(s).
Nyssa
Parma
OREGON
IDAHO
Wilder
Greenleaf
Homedale
Huston
Owyhee
Groundwater Levels for 05N 05W 04BCC1
WellNumber 05N 05W 04BCC1
WellID 306797
Driller's Report More info
# of WL Records 176
Min WL Year 1986
Max WL Year 2020
WaterUse Irrigation
CompletionDate 5/11/1986
MinOpening 45
MaxOpening 46
TotalDepth 46
Elevation 2,285
Zoom to


Hydrograph
Hydrograph
Well Number: 05N 05W 13CBC1 [104 records]
Depth to Groundwater
Well Number: 05N 05W 13CBC1
18
20
22
24
26
28
1980
1990
2000
2010
Created 5/31/2020
Date
Depth to groundwater is shown in feet.
Download as PDF is not supported in all browsers.
Starting year 1977
Ending year 2020
Redraw
Viewing 104 record(s).
Nyssa
Parma
OREGON
IDAHO
Wilder
Greenleaf
Homedale
Huston
Groundwater Levels for 05N 05W 13CBC1
WellNumber 05N 05W 13CBC1
WellID 383755
Driller's Report More info
# of WL Records 104
Min WL Year 1977
Max WL Year 2020
WaterUse Irrigation
CompletionDate 5/30/1977
MinOpening 39
MaxOpening 114
TotalDepth 142
Elevation 2,314
Zoom to

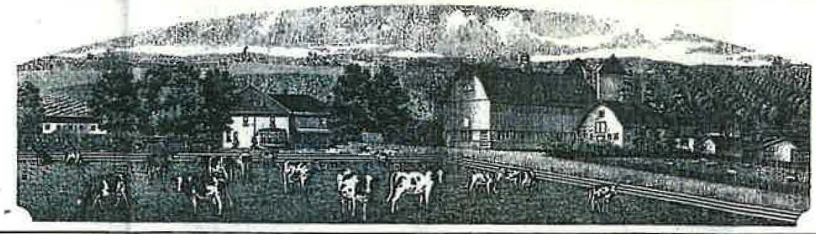

Hydrograph
Hydrograph
Hydrograph
Well Number: 05N 05W 13CBC1 [104 records]
Depth to Groundwater
Well Number: 05N 05W 13CBC1
18
20
22
24
26
28
1980
1990
2000
2010
Created 5/31/2020
Date
Depth to groundwater is shown in feet.
Download as PDF is not supported in all browsers.
Starting year 1977
Ending year 2020
Redraw
Viewing 104 record(s).
Nyssa
OREGON
IDAHO
Homedale
Huston
Owyhee
Groundwater Levels for 05N 05W 20CCD1
WellNumber 05N 05W 20CCD1
WellID 397081
Driller's Report More info
# of WL Records 177
Min WL Year 1981
Max WL Year 2020
WaterUse Domestic
CompletionDate 7/21/1981
MinOpening 36
MaxOpening 37
TotalDepth 37
Elevation 2,255
Zoom to


Hydrograph
Hydrograph
Well Number: 05N 05W 20CCD1 [177 records]
Depth to Groundwater
Well Number: 05N 05W 20CCD1
5
10
15
20
25
1990
2000
2010
Created 5/31/2020
Date
Depth to groundwater is shown in feet.
Download as PDF is not supported in all browsers.
Starting year 1981
Ending year 2020
Redraw
Nyssa
OREGON
IDAHO
Ho medale
Huston
Groundwater Levels for 05N 05W 20CCD1
WellNumber 05N 05W 20CCD1
WellID 397081
Driller's Report More info
# of WL Records 177
Min WL Year 1981
Max WL Year 2020
WaterUse Domestic
CompletionDate 7/21/1981
MinOpening 36
MaxOpening 37
TotalDepth 37
Elevation 2,255
Zoom to

10-001

PAR VALUE $10.00 PER SHARE

NUMBER --4199--



SHARES ------64------

Farmers' Co-Operative Ditch Company

INCORPORATED UNDER THE LAWS OF IDAHO

This Certifies that One More Mile, LLC and Idaho Limited Liability Company is the registered holder of ----------Sixty Four---------- Shares

FARMERS' CO-OPERATIVE DITCH COMPANY

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 19th day of February A.D. 2019.

Secretary

President

INCORPORATED 1902

tabbies EXHIBIT 10

© GOES 760
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Netty Enrico

From: Dena Redinger <dredinger@pioneertitleco.com>
Sent: Wednesday, April 8, 2020 2:31 PM
To: Matt Wilke; 'April Wilke'
Cc: 'Netty Enrico'
Subject: FW: [Attached in ResWare] RE: 711099: TBD River Bluff Road, Parma, ID 83660: Assessment Request

Matt,
Please see below from the ditch company.
How many water rights will transfer to this buyer?

Dena Redinger
Escrow Assistant/Funder
Pioneer Title Company
5680 E Franklin Ste 150
Nampa, ID 83687
208-465-6655 O
208-442-4812 D
208-460-5627 F

-----Original Message-----
From: Netty Enrico [mailto:fcdc1875@gmail.com]
Sent: Wednesday, April 8, 2020 2:22 PM
To: Dena Redinger <dredinger@pioneertitleco.com>
Cc: Bryce Farris <bryce@sawtoothlaw.com>
Subject: [Attached in ResWare] RE: 711099: TBD River Bluff Road, Parma, ID 83660: Assessment Request

Thank you for your request.

One More Mile has water rights with Farmers' Co-Operative Ditch Company.
Please contact either the realtor or the seller to find out how many shares they are transferring.

Thank you,

Netty Davis,
District Secretary/Treasurer
Riverside Irrigation District, Ltd. &
Farmers' Co-Operative Ditch Co.
208-722-2010

-----Original Message-----
From: Dena Redinger [mailto:dredinger@pioneertitleco.com]
Sent: Wednesday, April 8, 2020 11:24 AM



11-001

EXHIBIT 6

To: Farmers Co-Operative Ditch Company <FCDC1875@gmail.com>
Subject: 711099: TBD River Bluff Road, Parma, ID 83660: Assessment Request

Dena Redinger
dredinger@pioneertitleco.com
Escrow Assistant / Funder
Pioneer Title Company
Phone: (208) 442-4812
Fax: (208) 460-5627
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PioneerTitleCo.
GOING BEYOND

5680 E. Franklin Rd., Ste. 150
Nampa, ID 83687

April 8, 2020

Farmers Co-Operative Ditch Company
PO Box 69
Parma, ID 83660
Email: FCDC1875@gmail.com

Tel No. (208) 722-2010/Fax No. (208) 722-2011

File No. 711099

Please consider this letter our written request for assessment information on the property referenced below. Please return the assessment information figured through the closing date of May 1, 2020 via our **Fax No. (208) 460-5627 or email dredinger@pioneertitleco.com.**

Property Address: TBD River Bluff Road, Parma, ID 83660

Seller/Owner: One More Mile, LLC

Buyer: Russell Perry and Wendy Perry

Legal Description: PARCEL 11:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 5, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 5 from which an aluminum cap monument marking the Southeast corner of said Southeast Quarter bears North 89°31'47" East 1320.27 feet; thence along the West line of said Lot 5

North 00°15'40" West 367.22 feet to a ½ inch iron rod; thence leaving said West line

North 90°00'00" East 323.81 feet to a ½ inch iron rod to the East line of said Lot 5; thence along said East line

South 00°15'40" East a distance of 364.57 feet to a ½ inch iron rod on the South line of said Lot 5; thence along said South line

South 89°31'49" West 323.81 feet to the POINT OF BEGINNING.

Parcel No.: 25091010H0

Sincerely,

Pioneer Title Company of Canyon County

Dena Redinger
Tel. No. (208) 442-4812
Email: dredinger@pioneertitleco.com

Netty Enrico

From: Netty Enrico <fcdc1875@gmail.com>
Sent: Friday, December 20, 2019 11:00 AM
To: 'Matt Wilke'
Subject: RE: River Bluff Development / Remove surface water

Matt,

One More Mile holds the water shares for this parcel. You should get a letter from him. We have no control as to where he irrigates in our district.

Netty Davis,
District Secretary/Treasurer
Riverside Irrigation District, Ltd. &
Farmers' Co-Operative Ditch Co.
208-722-2010

From: Matt Wilke [mailto:matt@mywhitebarn.com]
Sent: Friday, December 20, 2019 9:51 AM
To: fcdc1875@gmail.com
Cc: April Wilke <april@mywhitebarn.com>
Subject: River Bluff Development / Remove surface water

Good Morning Netty,

I was wondering if I could get a letter from you stating that surface water will no longer be applied to the 14 Parcels of development ground for One More Mile LLC (Froerers).

I forwarded the E-Mail from Lori Graves at SPF showing the work being done on the water rights to irrigate out of the well. We will send your letter to IDWR with the applications.

Thanks Netty!

Matt Wilke
Farm and Land Specialist | REALTOR®
White Barn Real Estate
Mills & Co. Realty Inc.
208.412.9803
matt@mywhitebarn.com
www.mywhitebarn.com

From: Lori Graves <LGraves@spfwater.com>
Sent: Friday, November 29, 2019 1:43 PM
To: Sharla Froerer <sharla@froererfarms.com>
Cc: Matt Wilke <matt@mywhitebarn.com>
Subject: River Bluff Development

Hi Sharla,

Attached are 14 permit applications for the River Bluff Development. Please provide a signature at the bottom of page 2 from an authorized agent for "One More Mile LLC" and return the original signed pages to me with a check made out to Idaho Department of Water Resources (IDWR) for $1400.

Worth noting:

- Proposed irrigation on each application accounts for the parcel size minus 0.5-acre of future hardscape (i.e. home, driveway, etc.)
- Northern parcels 5, 7 and 9 appear to overlap into NENE quarter, however County Assessor and each lot's legal description indicate parcels are located entirely in SENE. The GIS tax lot shapefile appears to be scewed.
- The standard domestic flow rate in Idaho is 0.04 cfs per home. The proposed flow rate for domestic use on each application reflects the standard.
- The standard irrigation flow rate in Idaho is 1 inch (0.02 cfs) per acre, however the Department allows 1.5 inches (0.03 cfs) per acre for small systems less than 5 acres. The proposed irrigation flow rate on each application is based on 1.5 inches/acre irrigation.
- Wells with 6-inch casings, up to 200 feet deep are proposed for each parcel based on the results of the test well and direction from Matt Wilke.
- Primary irrigation from ground water is proposed. Matt will be providing a letter from Farmers Coop indicating surface water will no longer be delivered to the development property.

Please let me know if you have questions. Thanks Sharla.

Lori Graves | Water Rights Specialist
SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350 | Boise, ID 83706
p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2139
e. lgraves@spfwater.com | w. www.spfwater.com

SPF WATER ENGINEERING

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)

PERMIT NO. 63-34840)

In the name of One More Mile LLC)

_____)

30(b)(6) DEPOSITION OF FARMERS' CO-OPERATIVE DITCH COMPANY, TESTIMONY OF TOM JOHNSTON

May 12, 2020

REPORTED BY:

COLLEEN P. DOHERTY, CSR 345

Notary Public



THE 30(b)(6) DEPOSITION OF FARMERS' CO-OPERATIVE DITCH COMPANY, TESTIMONY OF TOM JOHNSTON was taken on behalf of the One More Mile LLC, via remote tele-video deposition, located at Boise, Idaho, commencing at 11:00 a.m., on May 12, 2020, before Colleen P. Doherty, Certified Shorthand Reporter and Notary Public within and for the State of Idaho, in the above-entitled matter.

APPEARANCES:

For One More Mile LLC:
(Present Remotely)
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For Farmers' Co-operative Ditch Company:
(Present Remotely)
SAWTOOTH LAW
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ALSO PRESENT: (All Present Remotely) Matthew Wilke, Alan Mills, Sharla Froerer

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THE REPORTER: The attorneys participating in this proceeding acknowledge that I am not physically present in the proceeding room and that I will be reporting this proceeding remotely. They further acknowledge that the witness will be sworn in remotely by me. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record.

MR. BARKER: Albert Barker agrees.

MR. FARRIS: Bryce Farris agrees.

TOM JOHNSTON,

first duly sworn to tell the truth relating to said cause, testified as follows:

EXAMINATION

QUESTIONS BY BARKER:

Q. Would you identify yourself for the record, please.

A. My name is Tom Johnston.

Q. And do you have a position with Farmers' Co-operative Ditch Company?

A. I am a board member, one of seven.

Q. So, Tom, I want to thank you and Bryce for agreeing to do this remotely during this odd time that

we're in the middle of. And so if at any time during the middle of this, we need to take a break, the same rules are going to apply as if we're all sitting in the same room as to any deposition. If you don't understand my question, you are certainly free to ask me to repeat it. If Bryce, your counsel, objects to a question, unless he tells you not to answer the question, then you should go ahead and provide the answer to the best of your ability. Do you understand that?

A. Yes.

Q. And you understand you are under oath?

A. Yes, I do.

Q. A remote oath works as good as an in-person oath for the purposes of this deposition. So as you know this is a deposition that's being taken in a water rights or Idaho Department of Water Resources proceeding involving protests that Farmers' Co-operative -- can I say, "Farmers' Co-op," is that good enough for you guys?

A. That's good. Thank you.

Q. All right. A protest that Farmers' Co-op has made to a series of applications filed for ground water rights by an entity called One More Mile, LLC. I have to say that a little slowly here to get my tongue tangled. And those are Permits 63-34840, and there is about 14 of them that are all being consolidated in this

proceeding. Are you familiar with that?

A. I am familiar with it, yes.

Q. And what I've done in this case is sent to your counsel what's called a 30(b)(6) deposition notice. And a 30(b)(6) is just the rule of the Idaho Rules of Civil Procedure that allows an entity or someone to take a deposition of an entity. And that entity in this case is Farmers' Co-op.

Have you been designated on behalf of Farmers' Co-op to respond to this 30(b)(6) deposition notice?

A. I have. We, as a board, there are seven of us. And all of them are actively farming except for myself, and I am currently retired.

Q. You draw the short straw for --

A. I draw the short straw, correct.

Q. But you understand, though, that when I am asking you questions, to the best of your ability, you need to tell us what -- you are answering on behalf of Farmers' Co-op, and not just your personal knowledge; right?

A. That is correct.

Q. And I would like to start briefly with what Farmers' Co-op is, and what does it do? So tell me, what is Farmers' Co-op?

A. Farmers' Co-operative, the water rights, it's

a diversion from the Boise River in Caldwell. The water rights date back to the 1860s, mid-'60s. And it was privately owned by some individuals. And in 1902, why the earlier settlers pooled their resources and purchased the water rights and created Farmers' Co-operative. The water rights are held with the company, and the company issues stock to private landowners, and the stock being a certificate that allows them to ability to use those water rights on their private land. Does that help?

Q. Yes, Farmers' Co-operative is a nonprofit corporation; is that right?

A. Privately held nonprofit, correct.

Q. And you are governed by a seven-member board of directors you indicated?

A. That is correct.

Q. And the Farmers' Co-operative has articles of incorporation and bylaws?

A. They do.

Q. And do you consider that to be your governing documents?

A. We do, and we refer back to them as old as when the company originated in 1902 on a regular basis. However our day-to-day activity is water delivery to our shareholders. But our main focus is dictated by our

bylaws, and our resolutions, and articles of incorporation.

Q. Do you also have additional rules and regulations for water delivery?

A. Correct. We --

Q. Sorry. Go ahead.

A. Our delivery is at the main canal. Unlike many irrigation companies, if you are, let's say, ten miles or ten feet from the company, from the main ditch as a shareholder, if multiple people, three or more are getting water out of same ditch as the distance away from the canal, there is a lateral association that is formed, and their deliveries are dictated by the lateral association. We only deliver water to our shareholders at the main canal.

Q. Is that called the Sebree; is that right?

A. When it was privately held water rights, it was by Howard Sebree, he originally bought them, yes.

Q. Do you have with you copies of the exhibits that I had sent over to Bryce?

A. I believe I do have them, Al. I'm pretty sure I do. All of them, yes. He shared them with me.

Q. Would you look at Exhibit 8, please?

MR. FARRIS: It's marked in the binder.

THE WITNESS: Over here. Okay. Yes, I have

Exhibit 8.

Q. (BY MR. BARKER) Does Exhibit 8 depict and would outline the service area or place of use of Farmers' Co-op?

A. Well, of course, it's quite a bit smaller than the one I have in the office, but it looks very much correct from near Caldwell clear to Nyssa, and that looks pretty much like the area, correct.

Q. And there is a little box in the upper portion of that map, I guess we'll call it, that states that "Farmers' Co-Op Ditch Company has 21,636 acre service area in service area for irrigation of 15,093 acres." And I know you didn't put that on there, but do you understand that that's in the ballpark?

A. I understand that we irrigate in the neighborhood with our water 15,000 acres, that is correct.

Q. And do you know how big your place of use is; how big your service area is? Is that 21,636 acres approximately?

A. That's probably correct. Much of it is not able to get water to it, yes.

Q. And why is water not able to --

A. Elevations.

Q. And so you just gave me an example, one of the

things because the court reporter is transcribing all of this, if we don't talk at the same time, it will be a lot easier on her. She'll appreciate it.

A. Sure.

Q. And I'll try to do the same, if we can. So do you know roughly where in this service area of the land owned by One More Mile is?

A. I've been by it a number of times. It's closer to the, I'd call it the end, at least downstream considerably in this project. You see the word "Apple Valley" on the small map.

Q. Exhibit 8?

A. Yes.

Q. It's in that vicinity?

A. It is in that vicinity.

Q. Does the company have difficulties getting water to the tail end of the ditch?

A. It has always been an issue; however with current luxuries like automation and headgates, automated gates. It's improved our delivery system considerably.

Q. I guess usually it's harder to get water to the end of the ditch than at the big beginning. Is that still the case at Farmers' Co-op?

A. Well, we have kind of a unique situation at

Farmers' Co-op. On Exhibit 8, everything that you see above the red lines, a lot of that is the Black Canyon Irrigation District. And their runoff, if you will, from their fields, and their excess water, it automatically spills into our Farmers' Co-operative canal. And so it is naturally fed by runoff of Black Canyon all the way through our canal system.

Q. Do you have water rights for wastewater from Black Canyon's runoff?

A. Not to my knowledge. I'm sorry. I can't say, I'm not sure. I don't believe that we ever filed the water rights. The project went in about, oh, anywhere from started in the early '20s as late as into the early '40s, that it was completed. And we were glad to get the water, and it was their way of getting rid of it. That's kind of what I think I know.

Q. So does Black Canyon go all the way down to the tail end of your system?

A. That is correct.

Q. So what we're here for today is to try and understand the basis of Farmers' Co-op's protests to the water rights applications that were made by One More Mile, what we talked about earlier. Are you familiar with the protests that were made?

A. I am.

Q. And are you familiar with the reasons the company decided to file the protests?

A. I am.

Q. So why don't you tell me in your own words why Farmers' Co-op chose to protest these water right applications?

A. The Farmers' Co-op, according to its Articles of Incorporation, they speak for themselves. We're a delivery company of these water rights that we hold. And that first and foremost, we want to give our shareholders good delivery. As well as the shares, themselves, and the ownership, we would like the people to use the surface water for their agricultural or their irrigation needs.

Now, that things are changing, there are more developments and things like that that come along, we have always encouraged the landowner shareholder to use their irrigation co-op water first, and use well water supplementary as a supplementary source. That's really the backbone of why we have -- it's our impression that this applicant is wanting to sell off the water of the property and use a primary source of their water as well water. When they already have surface water or co-op water, we would encourage them to use it first.

Q. Are you aware of any prior protests that

Farmers' Co-op has filed for somebody who wanted to use ground water as a primary water right?

A. Not that I am familiar with.

Q. Have you ever advised any user that they had to use their surface water first and could not, you, being the co-op, not you, personally, that they could not use ground water as the primary right?

A. We have done that, yes. Not multiple times, but at least that I'm familiar with, two different instances, and I'm sure before that, but two primary individuals that wanted to develop their property. And we asked that they transfer their stock into a water users association, and use or pressurize their water and use it as the primary irrigation, and use well water as supplement, and they agreed.

Q. And those two instances what were those?

A. Well, one was Apple Valley Estates, and I'm not sure -- Masa Kora Development was the other one that I'm familiar with.

Q. Was the Apple Valley Estates ever developed with --

A. Yes, it has been developed. Sorry. I spoke a little quick. But yes.

Q. And Kora have they been developed?

A. They are not fully developed. It is

partially.

Q. Do you know if either one of those entities proposed to transfer water off the land and use only ground water?

A. They did not propose that that I'm aware of.

Q. So when a water right protest is made, the Department of Water Resources has a number of guidelines. And I just want to walk you through those guidelines and see to what extent that you think they apply to this application. The first question that was raised in the protest was whether there was injury to Farmers' Co-op water rights as a result of using ground water for these 14 parcels. Are you aware of any injury to the Co-op's water rights?

A. I am not sure I understand the question. But if you are indicating that the injury --

Q. Let me rephrase it then.

A. Thank you.

Q. So this application proposes drawing water from 14 different wells from out of the ground water in the vicinity of property; right?

A. Right.

Q. Would doing so cause any injury to Farmers' Co-op's water rights?

A. Not that I would be aware of.

Q. Do you know if it would cause injury to any other third party's water rights?
A. Not that I'm aware of.
Q. Do you have any reason to believe that there is not sufficient water supply in the ground water to service these 14 wells?
A. My impression to that question is that because there is so much, all of the land practically is surface irrigated, it is a constant replenish to the underground water table. And in the event that surface water were not used, that may have some impact on ground water.
Q. Do you have any hydrologic data to suggest that if surface water is removed from these parcels, that there would not be enough water in the ground to supply them?
A. I have none, other than practical experience of my third generation of farming in the community. Our water table was a considerably lower in Farmers' Co-op, until the Black Canyon started irrigating north of us, which is up hill, and our water table increased considerably.
Q. Do you have any reason to believe that the applications that were being made by One More Mile or the Froerers is not being made in good faith?
A. Oh, no, I think they are probably doing

exactly, you know, everything according to what they would like to do.

Q. Do have any reason to believe that they don't have the financial resources to drill these wells and supply water to the land?

A. I can't answer that. I wouldn't know.

Q. Do you have any knowledge of whether or not there is going to be an effect if the wells are permitted, there will be an effect on the public water resources in the vicinity of the wells?

A. I couldn't answer that either.

Q. Have any reason to believe that there would be an adverse affect on the local economy if this application was permitted?

A. I don't think I'm qualified to answer that.

Q. What is the policy of Farmers' Co-op for authorizing a transfer of stock? What rules and guidelines and limitations do you have on allowing a shareholder to sell his stock to somebody else?

A. We do have a mechanism in our company that allows transfer of shares. They are brought before the board on a case-by-case analogy. All of them are a little different. The most common transfer would be an example of, say, myself selling my property to, say, Mr. Farris, and then I would transfer my shares of

stock, my irrigation for that property to Mr. Farris, and it would be part of a closing statement. That's normally how that works. Or in some cases, say, a gentleman, myself, owned 40 acres -- or I owned 80 acres, and I sold 40 acres to Mr. Farris. I would sell him half of my shares of stock for irrigation. Those are the kind of transfers that we customarily go by.

Q. So I guess it is in the bylaws. If you would look at Exhibit 1. And I've got page 27 of 43 marked at the bottom is what I'm going to call your attention to.

A. 27, is that what you said?

Q. Yes.

A. Okay.

Q. So does that Article VI, transfer of stock, the guideline for allowing transfer of shares?

A. I'm reading it. I'm sorry. It will take me a minute. That is correct on the transfer of stock. The only thing that I did not read into that, and maybe it's another article, but all transfers of stock are only final with approval of the board.

Q. Right. And if you look at two, three, four, the tail end of the fourth line and all of the fifth line -- I'm sorry -- the third line. "That such transfer shall not be valid except as between the parties thereto, until the same shall have been noted in

proper form upon the stock ledger of the company."

A. Right.

Q. Is that what you are referring to?

A. Yes.

Q. So if you wanted to sell the 40 acres -- is a share equal to an acre of water rights?

A. Our formula that we use, and they are not exactly to that, but the formula that the company is based on is one share will irrigate two acres of land.

Q. Okay.

A. So, for instance, on a normal, if there is such a thing as normal, but an 80 acre farm would have 40 shares of stock.

Q. So if you were going to sell water, 40 acres of your water right, it would be 20 shares then?

A. That is correct.

Q. So if you went to the board, or to sell these 20 shares of water to Mr. Farris, who was going to use them somewhere else, what kinds of guidelines would you use to decide whether or not that's appropriate or not?

A. The first thing the board looks at is how long -- the original issue of that stock as to what piece of property it represented, and most likely if it is still representing that portion. Secondly, how the water is delivered to that property, what conveyance do

they use. Do they use a lateral? Do they have a direct pipeline to their farm, those kind of things. We want to make sure that the property has its ability to get water, and if they need to join a lateral association, or get their own pipeline, or those kind of thing. And basically we just look at the history of the share, itself, and what water it delivered to what property, and make sure that the property in question is able to get the water, and not have any dispute over a delivery issue, and make sure that the shares are current and don't have any delinquent payments. And if there is any lateral association fees due to a company regarding the stock, we check with that, then we transfer it if everything is underneath that criteria.

Q. So has there been one of these transfers of shares from one parcel to a parcel owned by another person recently?

A. Yes, most recently a parcel to another individual. They might have had excess shares, and sold to a neighbor that would have liked to have had additional shares. So they were paying plenty of fees for the land that they were irrigating. That's common. Also there are people who do not, or become delinquent in paying the annual fees to their shares, that gets into foreclosure, goes through the foreclosure process,

and those shares are transferred to other water users. It's transferred to them on their ability to be able to use it. In other words, a piece of ground that has not had water on it, or a delivery system just by buying a share doesn't give them the right to reincarnate a water delivery system, and that sort of thing. We have to make sure that it is something they can use.

Q. How do you police the fact that the person has sold their water off of their land?

A. I'm sorry. How do we police the fact that it's sold? I didn't understand.

Q. That it's been sold, and this land no longer has a water right from Farmers' Co-op on it, how do you police that?

A. Most that I'm talking about are small parcels of property. For instance, years ago maybe a farmer had a home for him and one of his children. And that home, or the mom and dad's home was sold off with a share of stock. And so that owner of that home no longer wishes to irrigate it, or doesn't take care of it, or doesn't pay, and lose their stock. They no longer have a delivery system. We do deliver from the main canal. In the event that they are getting water out of a lateral, that's up to the lateral association not Farmers' Co-op. But if they have a headgate on the main canal, we'll

make sure it's either removed, or we'll make sure that there is no water delivery to it.

Q. Do you do something to make sure that the land has been dried up and it is no longer being irrigated?

A. We don't police that. Obviously, it's not getting watered, so it's probably being dried up. The point is what can happen, is that person that has done that, maybe lost their share to foreclosure. If they are gone or lose their home, the next person that buys the home may come in and ask if we have any shares for sale, or get one through the auction of a foreclosure, and reinstate the water on the property. And if the delivery system is still available to them through a lateral association, or a neighbor, or whatever, then they reincarnate that water on the land again.

Q. So when the water is foreclosed on, is that something that Farmers' Co-op does, or that a third party would do in the --

A. No, we do that.

Q. So you would hold a block of shares of some amount?

A. Correct. They are given a period of time from the due date of the fees. And after a period of time, then they are charged a late fee and some interest. And after a period of time of still no payment, their stock,

they are notified by certified mail that it will go into foreclosure. And after another period of time, that foreclosure notice is posted in the local paper, and a silent auction is held. And it's a sealed bid auction that potential buyers come in and sign the certificate and purchase the stock.

Q. You've said these delinquencies are mostly small parcels; right?

A. Correct.

Q. Have you ever had in recent years a situation where the board has approved a transfer of a larger block of water to land that doesn't have a water right, 40 acres, for example?

A. In the past, we have had a 40-acre parcel. The owner was continually delinquent in their payment and maintenance of their stock fees. Their property was rented to a farmer, to a renter. And from time to time, the renter would come to their aid and pay the fees just to keep the water on the land. And there came a time that the land and the stock for this 40-acre parcel went into foreclosure. The renter protested, or said that he would not any longer pay the fees, and the shares were sold. The renter, who had large parcels of land, himself, had adequate shares of Farmers' Co-op stock, and even additional stock than what he required, and he

transferred and used his additional stock to irrigate that property.

Q. So what happened to the 40 acres of water rights?

A. The shares were sold at auction like we do, and one of our other shareholders, who had needed additional shares, felt more comfortable. They were purchased by him.

Q. So in that instance, what's the process for transferring a share of stock to a different parcel of land? What does the board do? What does the company do to make that happen?

A. Well, again it comes before the board. And we were aware that this particular stock had gone into foreclosure, and that it was purchased, or the high bid was by a potential stockholder. It was a stockholder, but he had bid on it. Our approval process was that we look at the individual who owned lots of property. He had shares. He could certainly use the additional water. So he had the ability to get it through the system that he was currently using. And that we could adequately deliver it through the system that we have, and it was approved. And by approving it, then basically the only thing that changed was the stock certificate, itself. The name changed on a new

certificate from the person that lost it in foreclosure to the new purchaser.

Q. So your stock certificates don't show the parcel of land that it's appurtenant to, it's just in the name of the shareholder; is that right?

A. That's correct.

Q. What's the name of this buyer, of these foreclosed water shares?

A. I believe the buyer was Apple Valley Farms.

Q. Do you know who that is who owns that?

A. His name is Mr. Mike Nichols.

Q. Have there been instances outside of the foreclosure arena, where there have been just pre-market transactions between landowners or shareholders saying, you know, I've got these 40 acres that's dry. I can put it to better use than you can on your 40 acres. Would you sell me 40 acres worth of water or worth of shares? Has that happened in recent memory?

A. I've been on the board 15 years. I don't remember, other than the instance that I quoted you of a 40-acre parcel of land with the stock, I don't ever recall anything of that size. Most of the time, it's no more than 10 shares. And most of the time considerably less than that, one, or a half, or two, or three. And they either are sold again by foreclosure, which is

common, or someone who could use some additional water, has the ability to get that additional water. And it's not that they are putting more land in production, it's just that they are able to deliver more water to the land that they have. And they do buy back and forth between individuals subject to the board approval.

Q. Do you know of a shareholder named J.C. Watson?

A. I do.

Q. Are you aware that One More Mile had interest in buying the water on their property from Mr. Watson?

A. My understanding, it's the other way around. Is that right? It was Mr. Watson was wanting to buy stock from One More Mile.

Q. If I said that wrong, that's what I meant to say, yes. Let's assume that Mr. Watson was interested in purchasing the stock that One More Mile had on these parcels of land?

A. As far as a formal application to our company with respect to that transaction, I have never seen anything, other than word of mouth that it was reported to the board that One More Mile was considering, or had a buyer, or an interested buyer in the J.C. Watson Company. And I was told by the J.C. Watson Company that they were interested in buying.

Q. And who was that that told you from J.C. Watson?
A. Well, the owner, John Watson, and his son, Brad.
Q. When did that conversation take place?
A. I had a verbal very brief conversation with Mr. John Watson. And I am going to say, Al, I apologize, it's been over at least a month ago. And Brad Watson more like ten days ago.
Q. Okay.
A. And that conversation was by phone.
Q. I'm sorry. The conversation was last fall?
A. It was by phone.
Q. Oh, by phone. I'm sorry. I didn't hear that at all. Okay. My fault. I guess you are not the only one that has to ask for clarifications.
Anyway, tell me about the conversations with Mr. John Watson. What did you tell him, what did he tell you?
A. Basically John implied that he was interested in purchasing some additional shares. He was told that it was his understanding that One More Mile would like to sell him some, and would we be approving the sale. My answer to him was that we deal with those on a case by case situation. We do have rules and regulations

that we follow, but I have not yet formally come to the board yet. Brad Watson -- well, you haven't asked the question.

Q. Yes, go ahead. You were anticipating my question. Brad Watson conversation was with him in the last ten days or so?

A. It was about ten days ago. Our conversation was with a different matter that I had called him about. And he just shared that he was in hopes that we would be transferring stock, and I said that we had already had a meeting, and there were some questions and concerns that we had as a board. And currently it looked as though it was going to be a hearing process. And I gave him the reasoning, much like you already know, I think, as to why.

We are encouraging, and I explained to him as we always have, that the surface water, or stock water, Farmers' Co-op water is the primary irrigation source for the property, and secondary is for well water or a wastewater right. And that it appeared to the board that this application was for selling off their water, and then making well water, ground water their primary source, which we were questioning.

Q. What was Brad's response to that?

A. He was in hopes that it didn't come to a

hearing process, but he understood our concerns.

Q. Did either John or Brad tell you where they would like to use the water that they hoped to purchase from One More Mile?

A. They did not. I could speculate. I've known the family forever and all that, but that's immaterial what I think.

Q. Is there any reason that you know of that water, additional water could not be delivered to property owned by J.C. Watson Company?

A. They have a considerable amount of property, and many delivery systems. And the water in question, the stock in question would not be a deliverable problem, I don't think, for their company.

Q. So that if One More Mile and Watson were to come to some agreement on transferring water, the concern wouldn't be over delivery for failure to pay the assessments?

A. You are correct.

Q. But it would be over this concern about using ground water as supplementary as opposed to primary?

A. Correct.

Q. When your counsel gave us a resolution that was passed by the board in 2003 -- let me see if I can find it here. I think it's at the back of Exhibit 1.

MR. FARRIS: Al, I think it's in page 34 if that helps.

Q. (BY MR. BARKER) It's in both 1 and 2.

A. I don't know about 2. But I'm on 1 on page 34.

Q. Okay. Page 34. There we go. So, Tom, you've got page 34 of Exhibit 1, which is a 2003 resolution that the company passed?

A. That is correct.

Q. You were on the board when that happened; right?

A. No, I was on the board, I started in 2005, I believe.

Q. So you inherited this?

A. There you go. My father was on the board.

Q. Okay. You are familiar with this 2003 resolution; right?

A. I am.

Q. Can you tell me what the purpose of this resolution was?

A. Well, the purpose, motivation came, my understanding, again, I wasn't on the board, but as time went on, we originated with people that were in agriculture and were farming the land with surface water, and that was their main concern. And so down the

road people started to divide their property into multiples, different parcels, and transferring of stock. And so our board decided at that time to create a lateral and water users associations for divisions of property. And that it would create -- the people, for instance, on a 20-acre parcel, or whatever, if it were to be divided into multiple homes, or four, or five, anything over three, a water users association would be created.

Those individuals, because Farmers' Co-op delivers water at the main canal. We do not deliver to individual acreages. So the people that actually physically live on the property, become through an association, create the best and most efficient water delivery system that they can. And they have one pool of accounting that we send a bill to, one bill for the association of maybe multiple property owners or shareholders. And it just makes our bookkeeping better, our collections better, less people in foreclosure, and a better delivery system for the people that use it. Does that make sense?

Q. Yes. So what you would have is instead of this 20-acre parcel, you might have one owner of it.

A. Right.

Q. And after this parcel was divided, subdivided

into half acre lots, you might have 40 owners, and 40 different bills to have to send, and 40 different bills to have to try to collect, and it is a greater burden on the ditch company to have to worry about that. And you are also more likely to get paid if you have one person to collect the bill, rather than having to collect from 40 different people; right?

A. Very good.

Q. So is there anything in that 2003 resolution that you can point me to that says that your goal was to ensure use of surface water instead of ground water as the primary source?

A. Well, let me look through that, if you don't mind. Well, in reading it over, I don't see that it specifically states. I can say that the intent was to efficiently keep the water on the property and distribute it in a fair manner and affordable manner, and everybody would get the water. That seemed to be what I gathered from this statement. At the time it never occurred, or at least our intent was is to make sure that the water is best used on the land. That was the motivation behind creating this resolution.

Q. Would you pull up Exhibit 5, please? Do you have Exhibit 5 in front of you, it has a photograph on the front?

A. This one (indicating). Okay.
Q. Yes. And go to page 31.
A. Okay.
Q. It appears to be a letter from Farmers' Co-op to Tonya Hansen in 2006?
A. Yes.
Q. Are you familiar with this?
A. I am. I am just new at the time. The name is familiar. This is part of the Masa Kora development.
Q. I want to call your attention to the third full paragraph of this letter. And I'm going to read this into the record, and then we'll talk about it. You tell me if I get this right, because I often will trip over my tongue here. In the second sentence of the third paragraph, it says, "The directors would like to point out that the issue is not the splitting of land, but the splitting of water shares. Farmers' Co-operative Ditch Company cannot prevent someone from subdividing their land. The main purpose of the resolution is to keep Farmers' Co-operative Ditch Company water rights in agricultural productive and the stock certificates as whole as possible; otherwise, the company finds itself with a lot of fragmented shares, which cause difficulties in collecting assessments."
Did I do okay?

A. Yes.
Q. Okay. So would you agree with this letter from the company in 2006, that the main purpose was to keep water rights in agricultural production and the stock certificates as whole as possible?
A. Correct.
Q. So the follow-up question I want to ask you is if One More Mile were to transfer its water right shares to J.C. Watson, you would expect that Watson would keep that land in agricultural production?
A. That's correct.
Q. And the shares would be held by J.C. Watson and not by -- those shares would be held as a whole?
A. That's correct.
Q. So if One More Mile were to transfer its shares to J.C. Watson, that would be in keeping with the intent of the 2003 resolution; wouldn't it?
A. As long as it would stay in agriculture. My understanding is the One More Mile property was still being farmed in agriculture as well, until they have a land change.
Q. Right. But the transfer of the shares to Watson would be consistent with the intent of the 2003 resolution that's described in this 2006 letter that's at page 31 of Exhibit --

A. You are correct.
Q. Exhibit 5. I'm sorry. So Jerry Stone, do you know who that is?
A. Yes, I do.
Q. Who is that?
A. Jerry Stone, he had a CPA business in Parma. He was the secretary for Farmers' Co-operative for many, many years. The Farmers' Co-op used, or rented a spot in his building, and they held their meetings, monthly meetings and annual meetings in his office, and used his secretarial experience and bookkeeping experience. Since his retirement, the Farmers' Co-op have purchased his building, and we continue to use it today as Farmers' Co-op facility.
Q. What I would like you to turn to next is just the approach that you got for One More Mile about their proposal to drill wells on their property. Do you remember when you first heard about that?
A. Well, I had heard just from a conversation that they would be visiting us at our board meeting with regard to the transfer of their shares.
Q. Who did you hear that from?
A. I believe from our secretary.
Q. That's Netty?
A. Netty, correct.

Q. And which board meeting was the first time that you heard about them approaching the Farmers' Co-op?

A. Now, you are reaching, but I want to say in March, I belief. Unless we call an additional meeting, an emergency meeting, or whatever, but we generally hold our meetings monthly. I think it's the second Wednesday of every month.

Q. So if you look at Exhibit 1, pages 36 and 37. Can you tell me what those are?

A. This that I'm looking at on pages 36 and 37 of Exhibit 1 are the regular meetings of the board of directors of Farmers' Co-operative Ditch Company of March 11th of 2020.

Q. And if you look at the bottom of page 36, the minutes indicate that Craig and Sharla Froerer came to the board meeting and made a presentation to you?

A. Yes.

Q. Independent of what's written in those minutes, do you remember anything else that they, or their representative, Matt Wilke, told you about at this meeting?

A. They conducted themselves very well. They presented themselves well. Mr. Wilke, as I remember it, was their realtor; is that correct? I believe that's

who it was.

Q. Yes.

A. He, at least from my perspective, he presented himself with the idea that we had a mechanism in our company to transfer stock. And the Froerers wished to transfer the stock and drill wells on their property, and did not have a clear understanding as to why we would resist that, didn't think that we had made it clear. That was my impression of the meeting. But I think they presented themselves well. We gave them, or I was in hopes that we gave them a good history of the property that we had been dealing with over the last previous owners.

Q. And tell me what that history of dealing with the previous owners was, to your recollection?

A. Well, again the original -- well, it goes way back. But before I was on the board, I believe they were approached about development of this said property.

THE REPORTER: The voice cut out on the witness. I can't hear him.

(Technical difficulties Zoom froze up.)

(The reporter read back the last question and answer.)

Q. (BY MR. BARKER) So let me ask a new question there, Tom. The first approach that you had, what was

the communication between the board and the proposed developer about utilization of shares?

A. My understanding, and it was before I was on the board, but the original individual that purchased this, or at least had an agreement with Mr. Myron Peterson, who was the property owner, they wanted to develop. And the board's suggestion was that the way we would prefer is that they create a water users association. And that the portion of the shares, or all the shares, depending on how much they develop, be put in the association to administer the deliver and application of the water. And then later --

Q. And then after that -- I'm sorry. Let me just break this down into individual questions.

A. Okay.

Q. Did that development ever take place?

A. It did not, to my knowledge. And as a visual, when I drive by, I have not seen anything happen.

Q. And then did that developer put together a water users association?

A. Not that I am aware of. I never saw one -- the company, itself, had never saw one -- didn't ever see proof of one.

Q. And did Farmers' transfer water right shares to any homeowners' association at that time?

A. We did not.
Q. And then --
A. Excuse me. There wasn't an application to transfer.
Q. And then you said there was a second applicant that came to you by the name of Rick Farmer?
A. I was on the board at that time. And Mr. Farmer -- I don't know the ownership of the property, but he was the one that seemed to be steering the process. They had taken over the development, and wished to develop it, and asked our preference on dealing with the irrigation water. Again, we reiterated the same method of transferring the shares into a water users association with possibly a pressurized system utilizing the surface water, and he agreed to that. We, again, did not transfer any shares to an association. We never did receive an application for it.
Q. So this was the third application when the Froerers came to you for the One More Mile proposal?
A. To my application, that is correct.
Q. And you've already explained what took place in the meeting on March 11th with them. So looking back at Exhibit 1, page 36, at the bottom of that page, there is a reference to the Farmers' Co-op having protested the applications according to Idaho Code 67-6537, as

previously discussed in the February 12th, 2020 meeting. So I don't have a copy of the February minutes. Do you have a recollection of the discussion that took place regarding the protests at the February meeting?

A. Well, I was there. And the only thing that I remember is that I knew that the Froerers would be joining us, and under the advisement of our legal counsel, that we should protest the application of the wells. We have a board member that is in the Apple Valley community. The way our board distribution is represented, out of the seven members on our board, we are strategically placed along the route of our delivery system. So we all have representation of our little specific area.

Mr. Nichols, from Apple Valley, he brought up the fact that he had seen the notification in the newspaper for permits for the well permits through water resources, and he knew who it was, and he wanted to know if we should do something about it. That's why our legal counsel was called. And that's where it came up that we should protest the application under our legal counsels advise.

Q. Were you aware that the protest was filed in January before the February meeting?

A. Again, no, my apologies, I didn't know the

date it was filed. I remember the conversation, though, of how it came up, how it came about.

Q. Do you remember the application being discussed at your January meeting?

A. It may have been at the January meeting. I apologize. I do not have my notes in front of me, and I don't have my January minutes in front of me.

Q. Yeah, I don't either. But the March minutes state, as we just looked at on page 36, that it was discussed at the February meeting, the basis for the protest was Idaho Code 67-6537; right?

A. Yes, correct.

Q. I'm just trying to understand. Was there an authorization to file a protest in January, at the January meeting?

A. I can only say that the only reason that we would have filed a protest is from our legal counsels advice, and that had to have taken place before the filing, or Farmers' Co-op, the board, themselves, would not have taken that action without seeking legal counsel.

Q. Look on page 37 of Exhibit 1. You see at the top of the page, there is a discussion about whether to stick with the protest or make an exception with conditions. Do you see that reference?

A. I remember the conversation. I haven't seen the reference here yet, but I will.
Q. It's about five lines down from the top of the page.
A. Okay. Got it.
Q. So was there a discussion in this open session about what conditions that the board would consider?
A. I remember a consideration of different options, again different options that were available to us to possibly help the Froerers, or to get them through their process. But after the Froerers left our meeting --
MR. FARRIS: I guess I'm going to stop you here. Just to the extent that you are asking what was discussed during the open session of legal counsel, you can ask. But to the extent you are asking any attorney/client privilege that might have been discussed after that, I'm going to object to that.
MR. BARKER: Sorry, Bryce. I didn't hear all that. Can you talk through the mic?
MR. FARRIS: I think you asked him the discussion during the open sessions, which that's fine.
MR. BARKER: Yes.
MR. FARRIS: But he was going on. And I'm objecting to if there is discussion between legal

counsel that was not during the open discussion as attorney-client privilege.

Q. (BY MR. BARKER) Well, my question was, Tom, at the top, there was a discussion, or at least there is a reference to exceptions with conditions. And I wondered what conditions, if any, you talked about in the meeting?

A. The conditions we talked about is with wanting to sell off the water for this parcel, even though they have other land in this particular parcel, but they admitted that they would eventually want to develop. It was discussed with them in the room, that possibly if we could come to some agreement to transfer that portion of the land, the shares that would represent the portion that's currently going to be developed. And then put the stipulation or condition that if they were to transfer down the road, the other properties that it would have to be put into a water users association, and the main source of irrigation, surface water.

Q. Did you get a reaction to that talk?

A. I did not. That discussion came up after they had left the room, and our counsel was brought into discussion.

Q. So the next paragraph on page 37, where it says, "Adopt Resolution" in italics. Do you see that?

A. Uh-huh, yes.
Q. And this is page 37 of Exhibit 1; right?
A. Right.
Q. It says, "Attorney Bryce Farris reviewed the resolution board members asked him to prepare during the February 12, 2020 meeting." So what was the discussion again in February about a resolution that would deal with this question of the use of surface water and ground water?
A. Well, again, I want to apologize. I don't have my minutes in front of me for February 12. However I know that this has come up, this particular application of the Froerers. And possibly, if it was February 12, we had asked our legal counsel at that time, and that my understanding -- you are asking me the question about adopting this resolution, what was the discussion that was around it; am I correct?
Q. I'm asking both what was the direction that you gave to your counsel in February. And then I'm going to ask you what the discussion was about the resolution was in March. So the first question is what do you remember telling, directing your counsel to do, and why did you tell him to do it in February?
A. What I remember, and if it was February, and I'm assuming, and I don't like that word, but we were

aware of the applications for wells. We had asked counsel, because we have always tried to hit the note that we want our shareholders to use our irrigation water for primary irrigation and supplement it with wells. Our discussion with our attorney was that he would review it, and make recommendations to us at our next meeting.

Q. So in the March meeting, whose minutes we have in front of us?

A. Right.

Q. There is an indication that Mr. Wilke and the Froerers left in the meeting. And then after they left, you discussed passing this resolution. Do you remember that?

A. That is correct.

Q. Is there a reason that you didn't discuss the resolution while they were present, since it affected them?

A. We had them on our agenda, and they were there. And we heard them, and they left. And then we moved on to our other business, which was this part of their discussion. I would agree. But there was no particular reason as to why we didn't discuss it in front of them.

Q. Why did you feel it necessary to adopt the

2020 resolution? Why did the board feel it was necessary to adopt the 2020 resolution?

A. The original back in 2003 was placed there to create water users associations, and also more of a simple billing bookkeeping program. It was brought up with the Froerers while they were there in our meeting that it wasn't clear to them that we had this tool to transfer stock, and we weren't doing it. And this resolution was primarily to make it a little clearer that we wanted -- we really wanted to be more specific that our irrigation surface water be the primary use, and well water to be secondary, because it was outlined in state law, I believe. And we were just trying to amplify that more in our own resolution.

Q. From the board's perspective, do you believe it's appropriate to apply the 2020 resolution that applied the 2020 resolution to the shareholders who were proposing something before you even passed the resolution?

A. Well, again, you are asking me to answer you. And my impression is that in 2003, the indication from the board, the reason behind all of this, it was very clear for us in 2003, and we were just trying to explain it better in this more current resolution. I don't -- well, it's just the only way I can explain it.

We were trying to be more clear, or put it in a clearer basis as to what we were trying to accomplish. And had the shareholders, we have always as a board, tried to create resolutions that are in the best benefit of all shareholders.

Q. I guess I'm a little curious as to why the board thinks it's appropriate to apply something, I guess as a lawyer's term, ex post facto, but I mean, after the fact they come to you and said, we want to do something. And you said, well, we don't want you to do it. And, oh, by the way, here's a new resolution that says, you can't do it. And I'm maybe being a little flip here. But I just wondered why the board felt it was appropriate to apply the 2020 resolution to the application that the Froerers got pending before the resolution was passed?

A. Well, honestly, Al, I can't answer, other than I think our articles in the resolution speak for themselves. We've hit the same note in our history with other applicants wanting to be developed. It even came up in the conversation, I believe, by the realtor that we weren't clear. That was our effort to make it more clear for them. But that's my only explanation.

Q. Would you look at Exhibit 7.

A. Okay.

Q. So I'm going to make a representation to you, since I assume you are not personally familiar with all of the sections of the Idaho codes.

A. Thank you.

Q. But this is a photocopy or a print off that I made out of from the legislature's website about Idaho Code 67-6537. I'm not asking you to tell me if this is right or wrong. This is the statute that is cited in your 2020 resolution; isn't it?

A. Yes, I believe so.

Q. And it says in the second sentence, it says, "All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation." Did I get that close to right?

A. Yes.

Q. So what I want to understand is, what is it that the board believes are the land use changes that are being proposed by One More Mile that triggers the application of this statute?

A. I'm sorry. You faded out on me on the end, Al. What did you say?

Q. Let me try again. What is it that the board believes are the land use changes that trigger the application of this statute to the One More Mile

applications before the water board -- the Water Resources Department? Sorry.

A. You are asking me, as I understand the question, what triggered -- what about this triggered that response?

Q. My question is, this statute refers to land use changes; right?

A. Correct.

Q. So what do you understand, what does the board understand that the land use changes are that triggers this statute that are applied to the One More Mile project?

A. In this particular case of the application, the Froerers, the land use change would be from agriculture to development of homes.

Q. And is there any land use change application that you know of that's pending with the county or county approval?

A. I am not aware of it.

Q. Has the board had any conversations through any of your representatives with Canyon County to determine whether there is any land use application changes pending for this property?

A. I am not aware, nor have I been told of any communication.

MR. FARRIS: This is Bryce. I guess one question. How much longer do you have?
MR. BARKER: I'm wrapping up here, Bryce.
MR. FARRIS: What's that?
THE WITNESS: He's wrapping up here he said.
MR. FARRIS: Okay.
Q. (BY MR. BARKER) I have one thing I do want to talk to you about, and that is Exhibit 6, page 5. This is an email exchange between Netty Enrico and Matt Wilke.
A. Okay.
Q. You've got that?
A. Yes.
Q. And Netty is your current secretary/treasurer?
A. Yes, correct.
Q. And Matt Wilke is the current realtor for the Froerers?
A. I believe. That's my understanding.
Q. So there is a communication between Matt and Netty. And Netty responds to Matt, "One More Mile holds the water shares for this parcel. You should get a letter from him. We have no control as to where he irrigates in our district." Did I read that right?
A. That's correct.
Q. So did you or the board have any

communications with Netty, instructing her to respond in this fashion to Matt's inquiry?

A. No, we did not. She responded. We did not. We weren't aware of it. That was just her correspondence with them however -- well --

Q. So did you have any discussions with Netty afterwards about her response to Matt?

A. We didn't dissect this. But we thought that her response to it was accurate, even though it could be misconstrued to something else. But she gave him the right advice, that they do hold parcels, and that they would be in control of dictating where they would be placing the water on their property.

Q. So what does this last sentence mean, "We have no control as to where he irrigates in our district"?

A. If the Froerers, like in some cases, have multiple parcels of property, and have stock, larger portions of that water, or stock related water could be transferred or used on different parcels depending on their agricultural need. For instance, drip irrigation requires little volumes of water; whereas, other crops use considerable more. And from time to time, depending on what they would have planted in those fields, would require different measures of water. That's what I think that relates to.

Q. So how does the company know what land the shares are pertinent to?
A. The water, the shares are not attached to the land. They are attached to the owner of the land. It's his property. And he can use that water, distribute that water on the property that he owns if he has the capability of delivery.
Q. So let me give you a hypothetical and see if I understand this right. If One More Mile, for example, had 40 acres of land. And let's say, it was in two or three different blocks. They could use that water on any of those blocks as long as the water could be delivered by your ditch riders?
A. By a delivery system, correct.
Q. Oh, because they could be at the end of a lateral that you don't --
A. That is correct.
Q. So let's say they had 40 acres of land, and they had ten shares of water. They would be able to use that water on 20 acres, or even all 40 acres?
A. True, they would be short on the 40 acres. But, yes, it's more than accurate to -- ten shares would irrigate 20 acres easily.
Q. So let's say, they had 40 acres, and they felt like they needed to irrigate 20 of those acres with the

surface water, and wanted to get 20 acres of ground water. Would that be prohibited under your policy?

A. No, sir.

Q. But it's only when they want to irrigate land that's capable of being irrigated with the surface water with the ground water, that you would have a problem with that?

A. We would have a -- we would prefer, and we encourage that they use the water they already have as their primary source and to supplement that with any -- with other water, be it a well, or be it wastewater rights, or whatever.

Q. So another hypothetical. If Watson, who is a big landowner, and has lots of different shares, wanted to drill a well to use to run a pivot on their property somewhere, would you have a problem with that?

A. No. They would, of course, file their application with, I'm assuming, water resources, and the other departments that would dictate jurisdiction over an irrigation well, but we would not have a problem.

MR. BARKER: Okay. Tom, thank you so much. I know I kept you longer than I promised. But I don't know any lawyer who actually meets the time deadlines as such. Well, maybe Bryce does, but I'm not very good at it. So I apologize. Thank you for your time. And I

don't have any further questions.

Bryce, if you want to the ask the witness questions.

MR. FARRIS: I have a few questions.

EXAMINATION

QUESTIONS BY MR. FARRIS:

Q. I'm going to have to ask questions right here on that last question, if Mr. Watson proposed a new well, you would have no problem with that. If you understood he would no longer use the surface water, would you have a problem?

A. Yes, we would still follow the same rules and jurisdiction, or at least hit the same note that we would prefer, and I'm assuming that well is strictly a supplemental water source.

Q. So to clarify the answer and the question. If the new proposed pivot and well was for supplemental irrigation use, you would have no problem with it?

A. That is correct. Yeah. I'm sorry. Maybe I didn't make that very clear.

Q. The other thing I wanted to clarify. You were asked early on about whether or not Co-op, the ditch company had protested other ground water applications for irrigation. Are you aware of other situations where applicants have filed water right applications to divert

ground water and have it replace the surface water? In other words, is this application by One More Mile the first one that you are aware of?

A. It is the first one.

Q. And has the ditch company, though, protested applications for wastewater, additional wastewater to ensure that those were conditions to make sure they were supplemental?

A. Yes.

Q. And how many of those, or what instances are you aware of?

A. Well, there have been several. But the most current one that I remember is I think the school district or city of Parma, I believe it was the school district, but they were wanting -- they have shares, and they pump for their school property. And they wanted to drill wells or tap into the city, and we asked that they continued to use their wastewater rights, and supplement them -- or use their shares and supplement it with wastewater rights and city water.

Q. You were asked about this resolution that was passed at the March 2020 meeting, and whether or not your view should be applied to the One More Mile application. I guess my question is, did you feel that that policy was in place before that resolution was

passed?

A. Well, we always have tried to hit the same note, if you will, back in '03, when that was determined of creating lateral associations, or requiring lateral associations and the distribution. It was more -- we felt as though that was the grass roots of this new resolution only that this was more specific as to what our intentions are.

Q. So the policy wasn't changed by the resolution, the resolution just further clarified the policy?

MR. BARKER: Object to the form of the question. Leading the witness, Bryce.

THE WITNESS: Yes, it is.

MR. BARKER: Answer the question.

MR. FARRIS: Did you hear the answer?

MR. BARKER: I didn't.

MR. FARRIS: Colleen, can you repeat the question?

(The reporter read back the requested testimony.)

Q. (BY MR. FARRIS) What is your answer?

A. That is correct.

MR. BARKER: Repeat my same objection.

MR. FARRIS: Those are the only questions I

had.

MR. BARKER: I just have one redirect question.

FURTHER EXAMINATION

QUESTIONS BY MR. BARKER:

Q. If you look at Exhibit 1, page 41.

A. Okay. What exhibit? I'm sorry.

Q. Exhibit 1, page 41.

A. Okay.

Q. The one, two, third "whereas" clause. Do you see that?

A. Yes.

Q. It says, "whereas, this resolution, policy and rule is in addition to the previously adopted policy and rules in August of 2003."

A. Right.

Q. Did I read that right?

A. You read it right.

Q. And is that the case, that this rule is in addition to the previously adopted policy and rules of August of 2003?

A. The way I read that is, the addition is taking the '03 resolution, and in addition is basically repeating, or adding what state law is already saying, that we would like surface water to be the primary

source.

Q. Okay. And state law, as you understand it, is what is in 67-6537?

MR. FARRIS: Objection. It calls for a legal conclusion.

Q. (BY MR. BARKER) That's okay. You just said you were adding state law. So what state law were you adding?

A. It was noted in state law that they ask that we use -- they asked us to use surface water as their primary source.

Q. And what state law is that that you are referring to?

A. I'm not an attorney, Al. But we have it in here somewhere.

Q. Look at the second "whereas" clause. There is an Idaho Code section cited there.

A. 67-6537 is that what you are saying?

Q. That's what I'm asking.

A. Yes.

Q. Is that okay?

A. Yes.

MR. BARKER: I don't have anything further. Except for, Bryce, can you get me copies of the January and February board minutes?

MR. FARRIS: Sure.
MR. BARKER: Thanks, Colleen, unless Bryce has a re-recross.
MR. FARRIS: I do not.
THE REPORTER: Do you want a copy, Bryce?
MR. FARRIS: Yes, I would like a condensed copy. You don't need to provide the exhibits. I printed them all off.
MR. BARKER: And I don't need them either. I guess the original needs them. Thanks.
(Deposition concluded at 12:46 p.m.)
(Signature requested.)

CERTIFICATE OF WITNESS

I, TOM JOHNSTON, being first duly sworn, depose and say:

That I am the witness named in the foregoing deposition, Volume I, consisting of pages 1 through 58; that I have read said deposition and know the contents thereof; that the questions contained therein were propounded to me; and that the answers contained therein are true and correct, except for any changes that I may have listed on the Change Sheet attached hereto:

DATED this _____ day of _____,_____.

_____

TOM JOHNSTON

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20___.

_____

NAME OF NOTARY PUBLIC

NOTARY PUBLIC FOR _____

RESIDING AT _____

MY COMMISSION EXPIRES _____

ERRATA SHEET FOR TOM JOHNSTON

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You may use another sheet if you need more room.

WITNESS SIGNATURE _____

REPORTER'S CERTIFICATE

I, COLLEEN P. DOHERTY, CSR No. 345, Certified Shorthand Reporter, certify:

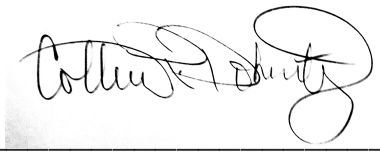
That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 25th day of May, 2020.



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COLLEEN P. DOHERTY, CSR 345
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636

My commission expires September 7, 2023.

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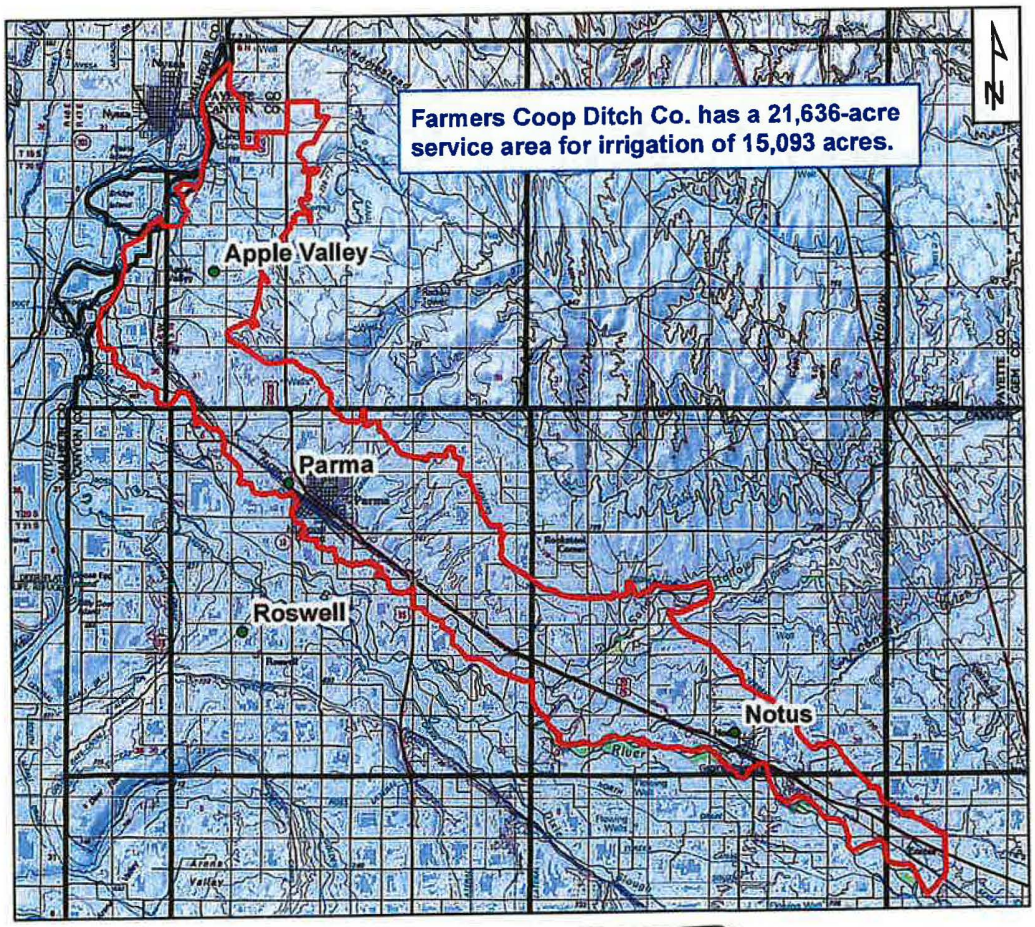
Farmers Coop Ditch Co. has a 21,636-acre service area for irrigation of 15,093 acres.
N
Apple Valley
Parma
Roswell
Notus

EXHIBIT 14

AMENDED BY-LAWS
OF
FARMERS' CO-OPERATIVE DITCH COMPANY
****

ARTICLE 1.
STOCKHOLDERS' MEETING

Section 1. PLACE OF MEETING. All meetings of the stockholders of this Company shall be held at the principal office or place of business of the Company, in Parma, Canyon County, Idaho, or such other place in Canyon County, Idaho as may be designated by the Board of Directors.

Section 2. ANNUAL MEETING. The annual meeting of the stockholders shall be held in February of each year at a date and time designated and directed by the Directors. At that meeting there shall be elected seven (7) persons as Directors who shall be stockholders of this corporation. All Directors shall be elected for a one-year term. Notice of the annual meeting shall be given to the stockholders in writing not less than five days prior to the date of the meeting.

Section 3. DEFERRED ANNUAL MEETING. If for any reason the annual meeting of the stockholders shall not be held as hereinbefore provided, such annual meeting shall be called by the President, or by order of the Board of Directors, on the request of stockholders holding not less than twenty percent of the issued stock, if the election for Directors has not been held as hereinbefore provided, to call a meeting of the stockholders, as provided in Section 2, for the election of Directors.

Section 4. SPECIAL MEETINGS. Special meetings of the stockholders may be called at any time by the Board of Directors or by the President, and it shall be the duty of the President to do so whenever so requested, in writing, by stockholders owning twenty percent of the issued stock. If the President on such request neglects for five days to call such special meeting, then the stockholders making the request may call such special meeting. Notice of such special meeting shall be given, as provided in Section 2 of this Article, and such notice, in addition to stating the time at which said meeting shall be held, shall briefly state the object of said meeting.

Section 5. QUORUM. At all stockholders' meetings, stockholders holding at least ten percent of the issued capital stock of the company and present in person or by proxy shall be necessary to constitute a quorum, but the stockholders present at any meeting, though less than a quorum, may adjourn the meeting to some other time.

Section 6. VOTING PROXIES. At all meetings of the stockholders, each stockholder shall be entitled to cast one vote for each share of stock held by him, and such part of a vote for each fractional share owned. Such votes may be cast in person or by proxy, but all proxies shall be in writing, signed by the stockholder; provided, however, that no stockholder shall be entitled to vote at any stockholders' meeting, who is indebted to the Company in any way unless such indebtedness in not then due, and no stock shall be transferable on the books of the Company, or otherwise, until the same has been fully paid for, according to the contract agreement under which the same was purchased from the Company and until all assessments levied thereon for any purpose whatsoever have been fully paid. Proxies given shall only be valid for a period of one year unless sooner revoked by the stockholders, and must be delivered in writing to the Secretary prior to the meeting. Where shares are owned by Corporation, Partnership, Trust, Estate, or other entity, some person shall be designated to vote for that entity.

Section 7. OFFICERS. The President and Secretary of this corporation shall act as President and Secretary, respectively, of each stockholders' meeting, and they shall constitute a committee to pass on the authenticity of proxies.

Section 8. ORDER OF BUSINESS. Roberts rules of order shall control.

Report of President.
Report of Treasurer.
Report of Watermaster.
Reports of Committees.
Electio



Unfinished Business.
New Business.

Section 9. VOTING LIST. Before any voting shall be held in Stockholders meetings, the Secretary shall prepare from the stock book of the Company, a list of the names of Stockholders entitled to vote, as shown by such books; and all those having authority to vote the stock of others shall present the same to the Secretary, who shall thereupon place beside the name of those entitled to vote as shown by said list, figures representing the number of votes to which each voter shall be entitled.

ARTICLE II.
DIRECTORS

Section 1. MANAGEMENT OF AFFAIRS. The affairs of this corporation shall be managed by a Board of seven Directors, who shall be annually elected at the annual meeting of the stockholders, except as by these by-laws otherwise provided.

Section 2. DUTIES OF DIRECTORS. The Board of Directors, subject to restrictions of law, the Articles of Incorporation, or these By-Laws, shall exercise all of the powers of the Company, and, without prejudice to or limitation upon their general powers, it is hereby expressly provided that the Board of Directors shall have, and are hereby given, full power and authority, to be exercised by resolution adopted by a majority vote of all the members of the Board, in respect to the matters as hereinafter set forth:

a. To act upon transfer of shares of stock of the Corporation and to cause to be issued appropriate stock certificates.

b. To select and appoint all officers, agents, or employees of the Company, or remove such officers, agents or employees of the Company with or without cause and prescribe such duties and designate such powers as may not be inconsistent with these By-Laws, and shall also fix their compensation and pay for services rendered.

c. To incur obligations, make contracts, borrow from any source, money, goods, or services, and to make and issue notes, and other negotiable and transferable instruments, mortgages, deeds of trust and trust agreements, and to do every act and thing necessary to effectuate the same.

d. To prescribe, adopt, and amend, from time to time, such equitable uniform rules and regulations as, in their discretion, may be deemed essential or convenient for the conduct of the business and affairs of the Company and the guidance and control of its officers and employees, and to prescribe adequate penalties for the breach thereof.

e. To order, at least once each year, an audit of the books and accounts of the Company by a competent public auditor or accountant at the discretion of the Directors. The report prepared by such auditor or accountant shall be submitted to the shareholders of the Company at their annual meeting.

f. To fix the charges to be paid by each shareholder for services rendered by the Company to him, the time of payment, and the manner of collection.

g. To require all officers, agents, and employees charged with responsibility for the custody of any of the funds of the Company to give adequate bonds, the cost thereof to be paid by the Company, and it shall not be mandatory upon the Directors to so require.

h. To select one or more banks to act as depositories of the funds of the Company and to determine the manner of receiving, depositing and disbursing the funds of the Company and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will.

i. To levy assessments against the shares of the Company and to enforce the collection of such assessments by the sale of delinquent shares, provided that such assessments shall be made and delinquent certificates shall be sold in such manner as may be specified by Idaho law.

j. To operate, maintain, and replace the ditches, canals, works and property of the company to the end that the shareholders shall receive equitable distribution of their share of the available water supply.

k. To exercise such other powers granted by the Articles of Incorporation, by these By-Laws, by Idaho law, or as directed by the shareholders from time to time.

Section 3. ELECTION OF OFFICERS. The Directors shall elect all other officers of the corporation, and such election shall be held annually as soon as possible after the annual stockholders' meeting. Vacancies in the Board of Directors may be filled by election by the remaining members of the Board at any regular meeting or at any special meeting called for such purpose.

Section 4. REGULAR MEETINGS. The Directors may hold their meetings in such place or places within the State as the Board may from time to time determine and direct. Regular meetings of the Board shall be held monthly at the office of the Company, in Parma, Idaho, or at such other place in Canyon County, Idaho, as the Board of Directors may hereafter designate.

Section 5. SPECIAL MEETINGS. Special meetings of the Board of Directors may be held whenever called by the President, or by three of the Directors for the time being in office. The Secretary shall give notice of any special meeting by mailing the same at least five days before the meeting to each Director; but such notice may be waived by any Director. At any meeting at which every director shall be present, even though without any notice, any business may be transacted. Written consent to action of the Board may be made by any Director and shall constitute presence at any meeting where such action was taken.

Section 6. QUORUM. A majority of the Board of Directors shall constitute a quorum for the transaction of business; but if at any meeting of the Board there be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

Section 7. QUALIFICATIONS. To be qualified as a Director, the person elected and serving shall be the owner of at least twenty (20) shares of stock of the corporation or be a Shareholder, Officer, Director, Employee, Partner, Trustee or other person having a beneficial interest in Corporation, Partnership, Trust, Estate or other legal entity owning at least 20 share of stock in the Corporation.

Section 8. COMPENSATION. Members of the Board of Directors shall receive compensation as fixed by the Board. (This amendment is intended to provide compensation to The Board of Directors in the same manner as compensation for Officers under Article III, Section 4. Board members also discussed adopting a resolution consistent with this section which provides that Board members shall receive $45.00 for each regular meeting attended and that the President shall receive $150.00 a year for mileage reimbursement.)

ARTICLE III.
OFFICERS

Section 1. EXECUTIVE OFFICERS. The Executive Officers of the Company shall be a President, Vice President, a Treasurer, and a Secretary. They will be appointed by the Directors as soon as possible after the election of Directors, and shall hold office at the pleasure of the Board, and until their successors are elected and qualified. The Offices of Secretary and Treasurer may be held by the same person.

Section 2. ADDITIONAL OFFICERS AND AGENTS. The Board of Directors may appoint a Watermaster, such other officers, agents or deputies as they shall deem necessary, who shall perform such duties as from time to time may be prescribed by the Board of Directors, and the Board may vest the power to appoint such subordinate officers or agents in the President or Watermaster of the Company, or any other officer of the Company or in any Committee of the Board.

Section 3. REMOVAL. All officers and agents shall be subject to removal at any time by the affirmative vote of a majority of the whole Board of Directors. All officers, agents, and employees, other than officers appointed by the Board of Directors, shall hold offices at the discretion of the Committee or of the officer appointing them.

Section 4. COMPENSATION. The compensation of officers for their services shall be fixed by the Board.

ARTICLE IV.
DUTIES OF OFFICERS

Section 1. PRESIDENT. The President shall be the Chief Executive Officer and Head of the Company, and in the recess of the Board of Directors shall have general control and management of its business and affairs. He shall preside at all meetings of the Board of Directors and stockholders, and shall, with the Secretary, sign all certificates of stock. He shall perform such other duties as may from time to time be required by the Board of Directors or By-Laws of the Company.

Section 2. VICE PRESIDENT. The Vice President shall be vested with all the powers and shall perform all the duties of the President in his absence.

Section 3. SECRETARY. The Secretary shall act as Clerk of the Board of Directors and of all stockholders' meetings, and shall record all votes and the minutes of all proceedings in a book to be kept for that purpose. He shall give notice of all calls for assessments to be paid by the stockholders, and shall see that the proper notice is given of all meetings of the stockholders and of the Board of Directors. He shall, with the President, sign all certificates of stock. He shall be the custodian of the seal of the Company and affix it to all instruments required to be authenticated therewith, and shall perform such other duties as may be required of him by the By-Laws of the Company or by the Board of Directors.

Section 4. TREASURER. The Treasurer shall keep full and accurate amounts of all receipts and disbursement in books belonging to the Company and shall deposit all monies and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Board of Directors. Money shall be paid out by the Treasurer when warrants are drawn on him in the manner and form authorized by the Board and recorded in the minutes of the Board and in a Warrant Record to be kept by the Secretary. The Treasurer shall render to the President and Directors at the regular meeting so the Board, and whenever they may require it, an account of all his transactions as Treasurer, and of the financial condition of the Company. (This amendment is intended to clarify that the Treasurer may pay bills/warrants without order of the Board, but must thereafter provide an account of all transactions and paid bills.)

Section 5. WATERMASTER. The Watermaster shall have charge of the Company's canal and irrigation system and control the head-gates, waste-gates, taps, flumes, and checks and the distribution of the water, and shall be the custodian of the tools belonging to the Company, and shall see that all such tools and property are kept in proper repair and safely stored and cared for, he shall see that the canal, head-gates, flumes and other parts of the company's irrigation system are kept in good repair and in such condition as will best serve the stockholders' interest and enable the company to deliver to each the water to which they are entitled; he shall supervise and direct all labor in a judicial and business-like manner, and keep proper account with all employees of the Company, showing the amount due such employee and for what the same is due, whether for services rendered or materials furnished; he shall make such report and reports to the President and Board of Directors as they may from time to time require, and shall faithfully and all times carry out the direction of the President and Board of Directors.

Section 6. OFFICIAL BONDS. The Directors may by resolution, require any or all of the officers of the Corporation to give bond with sufficient security, conditioned for the faithful performance of the duties of their respective offices.

Section 7. ABSENCE OF OFFICERS. In case of the absence of any officer of the Company, or for any other reason that may seem sufficient to the Board, the Board of Directors may delegate his powers and duties for the time being to any other officer or to any Director.

ARTICLE V.
STOCK

Section 1. Certificates of stock shall be of such form and device as the Board of Directors may direct, and such certificate shall be signed by the President and Secretary, and express on their face, their name, their number, date of issuance, number of shares for which and the person to whom issued.

Section 2. Several certificates may be issued to the same person or persons, provided, that in the aggregate they do not exceed the number of shares belonging to such person or persons. The certificate book shall contain a margin on which shall be entered the number, date, number of shares and the name or names of the person or persons expressed in the corresponding certificate.

Section 3. The Board of Directors shall have power to cause to be issued shares of the Capital Stock of the Company to the Stockholders in proportion to their several interests, not to exceed in the aggregate the Capital Stock of the Company. Each share of the stock so issued to represent and carry with it the perpetual and equitable right to the Company's available water supply, water rights and irrigation system, less appropriate transmission losses, proving all appropriate assessment are paid currently, during the irrigation season of each year as fixed by the Board and in accordance with the rules and regulation of the Company, and shall be issued to all those persons holding stock in this Corporation. Transfer of shares shall not entitle the transferee to receive water and benefits from the company where such water cannot be delivered through the existing irrigation system canals and ditches of the Company and the company shall not be required to construct any new or additional water delivery system for delivery of water to any lands not currently receiving water. (This amendment is intended to clarify that a share of stock entitles a shareholder to proportional/equitable interest in the water rights of the Company, which are currently 2 inches per acre, but subject to change depending upon water availability and other conditions as deemed necessary by the Board.)

ARTICLE VI
TRANSFER OF STOCK

Section 1. Shares of the Capital Stock of the Company may be transferred at any time by the holders thereof, or by power of attorney, legally constituted, or by legal representation, and such transfer shall be made by endorsement on the certificate of stock and by surrender of the same; provided, that such transfers shall not be valid except as between the parties thereto, until the same shall have been noted in proper form upon the stock ledger of the Company, and no transfer of stock shall be made upon the books of the Company until all indebtedness to it of the person in whose name the stock is registered shall have been paid. The surrendered certificate shall be cancelled by the Secretary before a new one shall be issued in lieu thereof and the Secretary shall preserve the cancelled certificate as a voucher.

ARTICLE VII
WATER DISTRIBUTION

Section 1. The Board of Directors shall annually fix the dates for the delivery and shut-off of water furnished by the Company.

Section 2. The Company will install, maintain and operate a main water distribution system, either pipe or open ditch from the source of the water supply and will install, operate and maintain diversion boxes, head gates or other suitable irrigation works at the points of diversion from the main canal. The Company shall no obligation or jurisdiction beyond the headgate or diversion from the main canal. The Company shall have the right to make such rules and regulations concerning the delivery of water as it may deem necessary. (This amendment is intended to clarify that the Company shall not be responsible beyond the headgate or diversion from the main canal. The Board also discussed adopting a resolution pursuant to this section which provides that the Company will maintain the headgate and diversion extending 40 feet from the point of diversion/headgate.)

Section 3. The Company shall have the sole and exclusive right to control all irrigation facilities and easements which are owned or operated by the Company, and no shareholder shall interfere or disturb any devices used to regulate and deliver water. The Company shall regulate the flow of water through the Company's facilities in such a manner as to

prevent waste and regulate distribution of water so as to secure to each person entitled thereto a supply in proportion to the shares held by such person in the company. Neither the Company nor its Officers, Directors or Employees shall be liable for damages due to inaccuracy of distribution of water or damage to the irrigation works or other reason. No shareholder or other person, after being notified by the Company not to do so, shall raise or cause or permit to be raised the headgate through which the shareholder receives water, or resort to any other method or device to procure more water from the Company's ditch than the amount allotted to him by the employees of the Company.

Section 4. No new service line or change in the existing service line may be made except with the consent of the Board of Directors. Each shareholder will be required to dig or have dug a ditch for the connection to the service line from the property line of the shareholder to the place of use on his premises, and to maintain such portion of the service line which shall be used by the shareholder, at his own expense, provided that the Company may, if the Board of Directors so determines, purchase the pipe for and install such portion of the service line, the cost of which will be paid by the individual shareholder.

Section 5. If any shareholder shall divide, subdivide or parcel out any portion of his land and shall sell shares in the Company to persons acquiring any such lands, then such shareholder dividing said land shall provide for a ditch distribution system, easements and weirs for the division and distribution of water to the property so divided. Any division or system described above must be approved by the Board of Directors. All costs of ditch, weirs, and any other equipment or irrigation devices necessitated by such land division shall be paid entirely by the shareholders selling or subdividing such land.

Section 6. Each shareholder shall be entitled to receive from the Company such water for farming, domestic and livestock use, subject to the provisions of these By-Laws and such rules and regulations as may be prescribed by the Board of Directors from time to time. The Company may, in its own name, enforce these By-Laws by any appropriate action.

Section 7. In the event the total water supply available shall be insufficient at any time and for any reason to meet all of the needs of the shareholders or in the event there is an interruption in the supply of water, the Company may prorate the water available among the various shareholders, or in its discretion, may provide for a water rotation system among the shareholders on an equitable basis.

(Resolution Adopted August 13, 2003)
THEREFORE, BE IT RESOLVED THAT:

1. In addition to the requirements and approval already set forth in the Ditch Company's Article of Incorporation and By-Laws relating to the division of property and transfer of shares, the Board of Directors requires that any shareholder that shall divide, subdivide or parcel out any portion of their lands into three (3) or more parcels shall be required to establish and/or designate a person or entity that shall be responsible for the ownership of shares for the property so divided and the acceptance and payment of any notices, charges or assessments that may be fixed by the Board of Directors.

2. The original shareholder shall be required to transfer all of the shares for the property so divided to one designated person or entity, and the newly designated person or entity shall then own and hold all of the shares for the property so divided. Said transfer of shares to the designated person or entity shall be effectuated in the Ditch Company's records so that all future notices, assessments and charges for all shares need only be sent to the designated person or entity.

3. The person or entity designated to own and hold the shares shall receive, collect and be responsible and liable for all assessments and charges of the Ditch Company and shall provide the Ditch Company with written notice that such person or entity is responsible for the payment of any charges or assessments fixed by the Board of Directors and shall provide the Ditch Company with a current address and phone number of where such notices, charges and assessments shall be sent;

4. The Ditch Company shall continue to charge and assess the shareholder's shares as it did prior to the division of such property, but rather than separate notices, charges and assessments going to each of the new owners of the so divided property, such notices, charges and assessments shall only go the designated person or entity that shall own and hold all of the shares for the property so vided and the designated person or entity shall then be responsible for allocating the charges and assessments among the shareholders of the divided parcels; and

5. The written notice submitted to the Ditch Company shall provide that the person or entity designated to own the shares and receive, collect and be responsible for the Ditch Company's notice, charges and assessments and confirm that such person or entity is responsible for the charges and assessments. The written notice shall further confirm that such person or entity is responsible and capable of managing the diversion and distribution system to the property so divided.

Section 6. Each shareholder shall be entitled to receive from the Company such water for farming, domestic and livestock use, subject to the provisions of these By-Laws and such rules and regulations as may be prescribed by the Board of Directors from time to time. The Company may, in its own name, enforce these By-Laws by any appropriate action.

Section 7. In the event the total water supply available shall be insufficient at any time and for any reason to meet all of the needs of the shareholders or in the event there is an interruption in the supply of water, the Company may prorate the water available among the various shareholders, or in its discretion, may provide for a water rotation system among the shareholders on an equitable basis.

ARTICLE VIII
ASSESSMENTS

Section 1. The Board of Directors, shall, at the March and October meeting of each calendar year determine and fix a flat minimum rate to be charged to each shareholder, for each share or fraction thereof during the following period, such flat minimum rate to be payable irrespective of whether any water is used by a shareholder during any month of said period. The Board shall fix a date for the payment of such charges and assessments, and shall notify each shareholder of the amount of such charges and assessments, and the date for payment thereof. A shareholder shall pay such charges at the office of the Company at or prior to the date fixed by the Board of Directors. Failure to pay assessments duly imposed in a timely manner shall result in the automatic imposition of the following penalties:

A. No shareholder shall be entitled to demand or receive water from the Company whenever any assessments or charges, including, but not limited to, interest and penalties, of the Company are due and unpaid, and the manager of the Company shall not distribute any water to such shareholder while delinquent in such payment except upon order of the Board of Directors of the Company who shall have authority to cause such water to be delivered upon such terms, conditions and security as may be required in the discretion of the Board of Directors. Assessments shall be due, unpaid and delinquent for the purposes of this section upon the first day following the due date provided by the Company for any assessments or charges.

B. Nonpayment for sixty (60) days after due, the shares shall be subject to sale for nonpayment of delinquent assessments, together with a late fee as fixed by the Board plus interest at a rate of twelve (12%) annum, from the date of delinquency, costs of notice and expenses of the sale. Notice shall be given in writing at least twenty (20) days before the commencement of said sale. The Board of Directors may prescribe the method of notice, time, and manner of said sale. Should the Company become the purchaser of said shares at sale, the Board of Directors are hereby authorized to allow redemption of the shares by the defaulting shareholder of the shares so sold upon payment of the sum for which they were sold, together with all subsequent assessments which may be due thereon, expenses of sale, late fees and interest on said sums from the time they were due, and right of redemption, if granted, shall continue until such shares are sold. (This amendment is intended to clarify that nonpayment of assessments includes a late fee which may be fixed by the Board and shall be adopted be resolution. The Board also discussed adopting a resolution consistent with this section which provides the late fee shall be $40)

C. Should any shareholder be indebted to the Company for sums other than the assessments, such sums shall be treated and collected as assessments as set forth above.

Section 2. In addition to the method provided in these By-Laws for raising revenue and money for use of the Company, the Directors may elect to levy or collect assessments upon stock of the Company as provided by any other laws of the State of Idaho.

Section 3. Assessments may be levied upon shares of a stockholders notwithstanding portions of a previous assessments remain unpaid.

ARTICLE IX
NONPROFIT CORPORATION

Section 1. This Corporation shall at all time be and remain a tax exempt nonprofit corporation for the benefit of its shareholders and not for profit or hire, and shall operate for the benefit of its respective shareholders. The Board of Directors is hereby authorized and empowered to take any steps necessary to insure that such status continues. No part of the net earnings or the assets of the corporation shall inure to the benefit of or be distributed to, its members, except to pay reasonable pay for services actually rendered.

ARTICLE X
FISCAL YEAR

Section 1. The fiscal business year of the Company shall begin the first day of January and end the 31st day of December following.

ARTICLE XI
AMENDMENTS

Section 1. These By-Laws may be amended or new By-Laws adopted by the vote of shareholders totaling at least 20% of the outstanding shares of the company at any regular meeting of the shareholders or at any special meeting of shareholders duly called for that purpose

RULES AND REGULATIONS
OF
FARMERS' CO-OPERATIVE DITCH COMPANY

The following are rules and regulations hereby adopted by the Board of Directors of Farmers' Co-Operative Ditch Company (hereinafter referred to as Company) for the government of the affairs of the Company pursuant to authority granted them under the By-Laws of the corporation. These rules and regulations shall be obeyed by the stockholders of the Company.

1. Ditches, Canals, and Roadways. The Company shall have the right of control over the canals, ditches and roadways of the Company and those distributing laterals by which water furnished is distributed to the shareholders. No person shall place any obstruction of any kind across or into any canals, ditches or roadways under the control of the Company. Gates across ditch bank roadways shall not be permitted, but cattle guards may be erected and maintained across said ditch bank roads by stockholders at their own expense provided they are constructed and maintained by said stockholder at such point and in such manner as to permit free and unrestricted use of the roadway in operating and maintaining the ditches and canals used or subject to control by the Company.

The foregoing rules and regulations of the Company was adopted by the vote of a majority of the Board of Directors of said Company at a duly held meeting of said directors held on the 15th day of May, 1996. Names of directors voting in favor of these rules and regulations are as follows.

Hans Gotsch
Rex Nichols
Hubert Iverson
Rod Neilsen
Kenneth Nelson

RINGERT
CLARK
CHARTERED
LAWYERS

September 5, 2003

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

Sheila Seeman
Farmers' Co-Operative Ditch Company
P.O. Box 430
Parma, Idaho 83660
Fax # (208) 722-7330

Re: Requiring Pressure Irrigation Systems when Property is Divided.

Dear Sheila:

At the last Board meeting, an issue was raised as to whether Farmers' Co-Operative Ditch Company (Farmers) can require a developer, or person that divides his or her property, to install a pressure irrigation system for the distribution of water to the newly divided property. This letter is intended to be our opinion as to whether or not Farmers has the authority to require such a pressure irrigation system. Please distribute this letter to the Board at their next meeting.

Farmers already has a policy, both in its By-Laws and by a recently adopted resolution, that requires any shareholder that divides his or her property to provide a ditch distribution system, easements and weirs to the property so divided. This policy is necessary to ensure that the property so divided is still entitled to receive his or her proportionate share of water. While Farmers ensures that a sufficient distribution system is provided, Farmers does not take over the operation and maintenance of the distribution system. To the contrary, Farmers new policy requires that there be a person appointed that is responsible for the distribution system prior to the transfer of shares. This policy is also consistent with the By-Laws, which provide that Farmers will operate and maintain the "main water distribution system" and that each shareholder is required to maintain the "service line" that connects to the shareholder's property. *See* Article VII, Sections 2 and 4.

As I understand Farmers' proposal, it wants to require a pressure irrigation system, or piping of the distribution system, to ease the operation and maintenance of the distribution system. This is because maintenance of a pressure irrigation system or piped system may be easier than an open ditch system. The problem with this requirement is that it goes beyond Farmers' authority. Farmers operates and maintains the main canal that distributes water to its shareholders. However, Farmers does not operate and maintain the various distribution laterals once the water is delivered to the headgate. This is consistent with Idaho case law which provides that a ditch company is not responsible for the distribution of among the users of a lateral ditch. *Preis v. Idaho Irrigation Co.*, 37 Idaho 109, 215 P. 466 (1923). Once the ditch company turns the aggregate amount of water required by the users into the lateral ditch, the ditch company's responsibility is ended. *Id.* Thus, once Farmers delivers the appropriate amount of water to the distribution lateral, it has no further responsibility for the operation or maintenance of the distribution system.



Consequently, it would be beyond Farmers' authority to require a pressure irrigation system for the ease of operation and maintenance over a distribution lateral that Farmers has no responsibility to operate and maintain. The decision to construct a pressure irrigation system, or to pipe the distribution ditches, is beyond Farmers' control. The shareholders that receive water from the distribution lateral are in effect a lateral users association pursuant to I.C. § 42-1301. The lateral users are then responsible for the operation and maintenance of the distribution system and it is the lateral users that can decided whether to install a pressure irrigation system or to pipe the distribution ditches.

Accordingly, it is our opinion that Farmers does not have the authority to require the installation of a pressure irrigation system, or to pipe the distribution laterals, whenever a shareholder divides his or her property.

Please contact us if you have any questions regarding this matter.

Yours very truly,

S. Bryce Farris

RINGERT
CLARK
CHARTERED
LAWYERS

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson

William F. Ringert, of Counsel
Allyn L. Sweeney of Counsel
Samuel Kaufman (1921-1986)

August 31, 2006

VIA FACSIMILE

T. Guy Hallam
White Peterson
5700 E. Franklin Road, Suite 200
Nampa, ID 83687-7901
Fax # (208) 466-4405

Re: Transfer of Farmers' Co-Operative Ditch Company Shares by Clay and Tonya Hansen.

Dear Guy:

This letter is to follow-up your letter dated July 27, 2006 regarding the above-referenced matter.

The Ditch Company has reviewed and considered the Hansens' formal request to transfer the shares from the Masa Masao Kora Revokable Trust directly to the Hansens, and this letter is to inform you that the Ditch Company will not grant the request. The Ditch Company requires that the Hansens, and the other parties purchasing property previously held by the Trust, Andrew and Roberta Maupin and Joel Van Lith, follow the Company Resolution Regarding Subdivisions dated August of 2003.

Please contact me if you have any questions regarding this matter or if I can provide further explanation.

Yours very truly,

S. Bryce Farris

cc: client

WHITE PETERSON

ATTORNEYS AT LAW

SARAH H. ARNETT
KEVIN E. DINIUS
JULIE KLEIN FISCHER
CHRISTOPHER D. GABBERT
WM. F. GIGRAY, III
T. GUY HALLAM **
JILL S. HOLINKA
JOHN R. KORMANIK *
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WILLIAM F. NICHOLS **
CHRISTOPHER S. NYE
PHILIP A. PETERSON
TODD A. ROSSMAN
JAMES M. VAVREK
TERRENCE R. WHITE ***
DENNIS P. WILKINSON

* Also admitted in CA
** Also admitted in OR
*** Also admitted in WA

July 27, 2006

Via U.S. Mail

Post-it® Fax Note 7671	Date 8/1/06	# of pages ▶ 9
To BCyce Farris	From Sheila	
Co./Dept. Ringert-Clark	Co. Farmers' Co-Op. Ditch	
Phone # 342 4591	Phone # 722-5044	
Fax # 342-4657	Fax # 722-7330	

Board of Directors
Farmer's Cooperative Ditch Co.
P.O. Box 430
Parma, ID 83660

Re: Transferability of shares

Dear Board of Directors:

I apologize for the delay in communicating with you. I had hoped to provide the legal basis for the Hansens' request for completing the transfer of shares from the Masa Masao Trust pursuant to their purchase of Parcel No. R2303900000 from the Trust, prior to your meeting on July 12, 2006.

I reviewed the *Company Resolution Regarding Subdivisions* (see Exhibit A) passed by the Board in August, 2003 which restricts a shareholder's ability to transfer shares if the shareholder subdivides or parcels the land irrigated with water provided by Farmers' into three or more portions. I also reviewed your correspondence of February 15, 2006 (see Exhibit B) which initially denied the Hansens' request for a waiver of the restriction applying to their purchase of property from the Masa Maso Trust in 2003.

Your letter avers the issue is "*not* the splitting of land, but the splitting of *water shares*" and that the main purpose of the Resolution is to "...keep water rights in agricultural production and the stock certificates as whole as possible..." The Resolution itself establishes the relationship between the Resolution and subdividing land, tying the shares to the land expressly in its language in paragraph 2 when it references the designation of a person or entity to "...own and hold all of the shares for the property so divided."

In effect, the Resolution hinders the transfer of shares which relate to water rights, generally considered as part and parcel of real property rights. Hindering conveyance of real property may be a violation of the Idaho State Constitution. Further, the Resolution denies purchasers the ability to own the shares related to their property and effectively blocks a new landowner from voting, holding office or individually participating in Farmers' Cooperative.

The Resolution states this procedure is to be triggered when "any shareholder that shall divide, subdivide or parcel out any portion of their lands into three (3) or more parcels..." That language clearly contemplates the creation of new parcels/lots which presumably would entail a record of survey and redrawing of legal descriptions. Neither of those things occurred in this case. The parcel purchased by the Hansens existed for decades and the subdivision it lies within, the "*Idaho Investment Company's Subdivision*" has existed for more than ninety years (see attached Exhibit C noting it was created on November 30, 1915). The Resolution improperly attempts to retroactively impose restrictions on property already divided as these parcels pre-date it by decades. Further, the Hansen's property consists of four separate lots, which have similarly been platted for nearly one hundred years.

Clearly, the Resolution was intended to apply to the creation of new residential subdivisions which would share water use which is not the case here. The Hansens replaced the existing residence on the property and have continued the property in its agricultural use by putting in an orchard and beginning construction of an 1,600 square foot greenhouse for future agricultural production.

The water delivery system has recently changed, with the Hansens being one of only two users for the headgate (see Exhibit D). *Idaho Code* 42-1301 (see attached Exhibit E) which is referenced in the sample water user association form provided by Farmers,' is for three or more parties taking water at the same point to be conveyed to their respective premises and is clearly inappropriate for a two-user situation. Conversely, the third parcel of the Kora property appears to fit the circumstance contemplated by the Resolution in that it has been divided into four residential lots (see Exhibit F) with multiple potential water users sharing a single headgate.

Timing is also an issue with the enforcement of the Resolution as when the Hansens purchased their property in September, 2003 (closed on November 10, 2003) the Trust's property holdings which receive irrigation water from Farmers' was divided into two, not three parcels, as stated in the Resolution. Thus the Resolution does not apply to the initial split of the Trust property. Given my understanding that the Board gives notice to its shareholders of business transacted only once or twice per year, it is unlikely the original shareholder, or any shareholders for that matter, had any opportunity to have appealed the Resolution at the time of the Hansens' purchase in 2003. Limiting a shareholder's ability to transfer shares has the potential to devalue the property those shares relate to and would be, presumably, an item of business which should be approved and ratified or, at minimum, subject to appeal by the general membership.

As a practical matter, the Hansens have no ability/authority to create the entity as set forth in the Resolution as it is a function of the original shareholder. Similarly, at this point in time, the original shareholder has no authority either, as interest in the shares passed with the deed to the Hansens. I also understand the shares were physically conveyed to Farmers' with the request that they be transferred to the current owners of the real property for which they were originally allocated. That has not yet been done by Farmers'.

Finally, there is a question of some significance regarding the feasibility of one water users association for the three property owners who purchased from the Trust. Each of the three has different goals and plans for their respective properties. To say that the Hansens' goals and ideals are divergent from one of the other owners would be a great understatement. The logistics of the Hansens being in a water users association with the other property owners would be significant and could, in fact, backfire and cause much greater work for the Farmers' Cooperative Board.

Please consider this a formal request to expedite the transfer of the shares from the Kora Trust related to Parcel No. R2303900000 (pursuant to Mr. Kora's request) to the Hansens immediately. Of course, the Hansens would execute a release to Farmers' which includes a confidentiality clause.

Please feel free to contact me if you have questions or wish to discuss any of the issues raised herein.

Regards,

WHITE PETERSON, P.A.
Dictated and sent without
signature to avoid delay
T. Guy Hallam, Jr.

Enc.
Cc: client

Farmers' Co-Operative Ditch Company
P.O. Box 430
Parma, Idaho 83660

COMPANY RESOLUTION REGARDING SUBDIVISIONS

The following is an excerpt from the Resolution adopted by the Board of Directors in August of 2003, regarding the subdividing of lands that are irrigated with water provided by Farmers' Co-Operative Ditch Company.

THEREFORE, BE IT RESOLVED THAT:

1. In addition to the requirements and approval already set forth in the Ditch Company's Articles of Incorporation and By-Laws relating to the division of property and transfer of shares, the Board of Directors requires that any shareholder that shall divide, subdivide or parcel out any portion of their lands into three (3) or more parcels shall be required to establish and/or designate a person or entity that shall be responsible for the ownership of shares for the property so divided and the acceptance and payment of any notices, charges or assessments that may be fixed by the Board of Directors;
2. The original shareholder shall be required to transfer all of the shares for the property so divided to one designated person or entity, and the newly designated person or entity shall then own and hold all of the shares for the property so divided. Said transfer of shares to the designated person or entity shall be effectuated in the Ditch Company's records so that all future notices, assessments and charges for all shares need only be sent to the designated person or entity;
3. The person or entity designated to own and hold the shares shall receive, collect and be responsible and liable for all assessments and charges of the Ditch Company and shall provide the Ditch Company with written notice that such person or entity is responsible for the payment of any charges or assessments fixed by the Board of Directors and shall provide the Ditch Company with a current address and phone number of where such notices, charges and assessments shall be sent;
4. The Ditch Company shall continue to charge and assess the shareholder's shares as it did prior to the division of such property, but rather than separate notices, charges and assessments going to each of the new owners of the so divided property, such notices, charges and assessments shall only go to the designated person or entity that shall own and hold all of the shares for the property so divided and the designated person or entity shall then be responsible for allocating the charges and assessments among the shareholders of the divided parcels; and
5. The written notice submitted to the Ditch Company shall provide that the person or entity designated to own the shares and receive, collect and be responsible for the Ditch Company's notices, charges and assessments and confirm that such person or entity is responsible for the charges and assessments. The written notice shall further confirm that such person or entity is responsible and capable of managing the diversion and distribution system to the property so divided.

EXHIBIT A

Farmers' Co-Operative Ditch Company
P.O. Box 430
Parma, Idaho 83660

February 15, 2006

Tonya Hansen
28818 Hurtz Road
Parma, ID 83660

Dear Ms. Hansen:

We received your letter dated, January 12, 2006, regarding your request for Farmers' Co-Operative Ditch Co. to transfer water shares to your property which you purchased from the Masa Kora Trust.

The Board of Directors understands your position and your wish not to be a part of a homeowners' association or a small water users' organization. However, Mr. Masa Kora, Jr. was aware of the Resolution regarding subdivisions and the splitting of water shares within the boundaries of Farmers' Co-Operative Ditch Company when he began selling the properties belonging to his father's estate. We would like to point to the fact that we have no control over whether or not a seller informs a potential buyer of certain very important issues regarding the property they are selling.

You mention in your letter that the parcels in the Kora Estate pre-existed the Resolution passed by the Board of Directors of this Company in 2003. The Directors would like to point out that the issue is *not* the splitting of *land*, but the splitting of *water shares*. Farmers' Co-Operative Ditch Company cannot prevent someone from subdividing their land. The main purpose of the Resolution is to keep Farmers' Co-Operative Ditch Company water rights in agricultural production and the stock certificates as whole as possible; otherwise, the Company finds itself with a lot of fragmented shares, which cause difficulties in collecting assessments. The Directors feel that the parcel owned by Joel Van Lith, which you indicate is the south parcel, is a part of the homeowners' association or whatever type of entity the owners of the three parcels form, and therefore would not need to form a separate water users' organization.

The Board of Directors of Farmers' Co-Operative Ditch Company does not intend to take any action which would be contrary to the By-Laws of this Company or any Resolutions passed by the Company.

If you have any further questions or concerns regarding this matter, please contact us at the above letterhead address.

Thank you, Ms. Hansen.

Sincerely,

Jerry D. Stone
Secretary

cc: Rod P. Nielsen, President

EXHIBIT B

REGULAR MEETING OF THE BOARD OF DIRECTORS
OF FARMERS' CO-OPERATIVE DITCH COMPANY
February 12, 2020

PRESENT: Directors Rod Nielsen, Bill Hartman, Tom Johnston, Mike Skogsberg, Kevin Miyasako, Michael Jemmett, Manager Vincent Sevy and Secretary Netty Enrico

GUESTS: Clinton Pline and Roger Batt – Treasure Valley Water Users Association
Kevin Olinger
Bryce Farris – Conference Call

Director Rod Nielsen called the meeting to order at 12:57 p.m. at the Farmers' Co-Operative Ditch Company Conference Room.

Approve February Agenda and January 8, 2020 meeting minutes: Meeting minutes were emailed for board members to review. Tom Johnston moved to approve the January Agenda and the January 8, 2020 meeting minutes as written. Seconded and carried by Kevin Miyasako. Rod Nielsen signed the minutes.

Clinton Pline updated board members on the Treasure Valley Water Users Association continuing education and outreach program and the green LIDAR program. The LIDAR predicts if the river floods, how the water will flow and what areas will be impacted.

Roger Batt thanked the board for their time. Mr. Batt reported on their continuing protection of water rights, water quality and flood maintenance and education to citizens of the Treasure Valley. After some discussion, board members agreed to continue supporting the Treasure Valley Water Users Association.

Attorney Bryce Farris create a Resolution: At 1:28 p.m. Attorney Bryce Farris conference called to the board members to discuss One More Mile 14 lot applications with the Idaho Department of Water Resource for well permits. One More Mile would like to move or sell the surface water from the 14 lots. Attorney Bryce Farris stated he has protested these application based on the Idaho Code, if the land has surface water, the surface water has to be used first and the well water can be used as the secondary supply. Board members agreed for Bryce to create a resolution according to our Amended By-Laws, Article VII, Section 5 add, "If surface water is available to be delivered or supplied by the Ditch Company, pursuant to and in compliance with Idaho Code 67-6537". Board members agreed to have Bryce create a resolution and have back before the March board meeting. Bill Hartman moved for Bryce create a Resolution according to the Idaho Code 67-6537 and the developer has to create a water users association. Seconded and carried by Mike Skogsberg.

At 2:02 p.m. Bill Hartman moved to recess for the Annual Meeting. Seconded and carried by Tom Johnston.

At 2:35 p.m. board members resumed the regular scheduled meeting ~~will~~ with all in attendance.



26-001

Review and Approve the January 2020 Financials and Account Payables: Board members reviewed and discussed the January financials and accounts payables. After some discussion, Director Tom Johnston moved to approve the January financials. Seconded by Mike Skogsberg. Motion carried. (See attached)

Stock Transfers:

1.	From:	Ricky Lee Branin and Rebecca M Branin	2.0 Shares
	To:	Mary J. Sugita and Jacqueline M. Sugita	2.0 Shares
2.	From:	Dennis & Cynthia Robinson (33592 Apple Valley Rd.)	.50 Shares
	To:	Brett Laird (purchased at the auction $120.00) (1012 N. C Street #5, Parma)	.50 Shares
3.	From:	Julie Zohovetz	5.0 Shares
	To:	John and Sheryl Harris	2.0 Shares
	To:	Julie Zohovetz (Split)	3.0 Shares
4.	From:	Eleanor Martin	33.0 Shares
	To:	Mantis Holdings, LLC	33.0 Shares
5.	From:	Eleanor Martin	23.0 Shares
	To:	Mantis Holdings, LLC	2.0 Shares
	To:	Eleanor Martin (Split)	21.0 Shares

Board member discussed the transfer of the auction from Dennis & Cynthia Robinson to Brett Laird at 1012 N. C. Street #5, Parma, ID. After some discussion board members agreed, Mr. Laird needs to sign an understanding the irrigation water is undeliverable and is run off water only to his property but can use the runoff water from the pipe on the corner of his property.

After some discussion, Tom Johnston moved to approve the stock transfers as presented and to have Mr. Laird sign a statement of understanding the irrigation is undeliverable but can use the runoff water from the pipe on the corner of his property and attached the understanding in the stock book. Seconded and carried by Kevin Miyasako.

Secretary Report:

- *Canyon Ditch Company agreement:* Canyon Ditch Company would like to rent a space to hold their records and to use the conference room for $100.00 for the 2020 year. Bill Hartman moved to have Rod Nielsen sign the one year contract with Canyon Ditch Company to hold their records and use the conference room for the 2020 year. Seconded and carried by Kevin Miyasako.
- *Ditchriders from hourly to salary:* To have the ditchriders on hourly wages, it would be against the Unemployment rules for them to receive comp time. If they were on salary they would be able to keep comp hours according to our Employee Handbook. After

some discussion, Kevin Miyasako moved to have the ditchriders on salary wages. Seconded by Mike Skogsberg. Motion carried.

Managers' report:

- *Turn on date:* After some discussion, board members agreed to turn the water in the canal on March 16, 2020.
- After the ditch tour, we decided to dip out Apple Valley Spill at the railroad tracks to prevent flooding onto Marilyn Brooks property. I told her that I would come back at a later date and smooth out the spoils. She was please and appreciative.
- Started dipping the silt pond with excavator in the bottom of the pond. We are piling the silt on the sides of the fingers and banks. Since Mike came back to work he is dipping silt pond when weather permits.
- We have hauled RIP RAP from Hwy 95 to checks on Grandview.
- Put new rings in jumping jack and took to Honda for Carburetor repairs. It works good now.
- Dump truck tailgate was popping open while hauling the silt. I replaced adjusting yokes on the tailgate.
- We need to replace the batteries at the automation sites.
- We replaced the walking on check at Apple Valley and Grandview Road and the check above the Parma check.
- Have Paul learn to run the dozer by knocking down the spoil piles.
- Paul is studying for his CDL license.
- Next year's plan on the sediment pond we will start pumping into the new pipeline going into the Hilliard's pipe at the earliest time possible. When the water gets low enough, I will have Black Canyon bring their longstick over and connect pools to remove as much water as possible. When the dirt is workable I will then use the Hitachi in the bottom to throw material where it can be reached by a longstick. When the silt is solid enough to be put into a truck without running out the tailgate, I will see if Riverside is available to dip out the silt pond. (tentivly February) Riverside is available in December and February for two or three weeks. I am expecting it to take 120 hours with the longstick to dip out all of the pond and approximately 600 loads of material. If Riverside is not available, we will rent out a long stick from Ecco Equipment for one month for $9,000.

Information:
Board members agreed, the next regular scheduled meeting will be held March 11, 2020 at 8:00 a.m.

Director Rod Nielsen asked if there was any further business to be conducted by the board. Kevin Olinger moved to adjourn at 3:57 a.m. Seconded and carried by Bill Hartman.

Rod Nielsen — 11 March 2020
President, Rod Nielsen — Date

Annette Enrico — March 11, 2020
Secretary, Annette Enrico — Date

EXHIBIT A

RESOLUTION OF
FARMERS CO-OPERATIVE DITCH COMPANY

Pursuant to the Articles of Incorporation and By-Laws of Farmers Co-operative Ditch Company be it resolved that the Board of Directs adopts the following rules and regulations relating to the subdivision of lands, transfer of shares and use of Farmers Co-operative Ditch Company's water rights.

WHEREAS, Article VII, Section 5 of the Farmers Co-operative Ditch Company's (hereinafter "Ditch Company") By-Laws provide, in part, that any shareholder that shall divide, subdivide or parcel out any portion of his or her lands, "then such shareholder shall provide for a ditch distribution system, easements and weirs for the diversion and distribution of water to the property so divided. Any division or system described above must be approved by the Board of Directors." Article II, Section 2, paragraph d. of the Ditch Company Bylaws further provide the Board of Directors with the authority to adopt "equitable uniform rules and regulations" for the conduct and business affairs of the Ditch Company; and

WHEREAS, the Board of Directors is desirous of adopting a policy and rules regarding the continued use, diversion and distribution of water to the property so divided, including the continued use of available surface water delivered or supplied by the Ditch Company, pursuant to and in compliance with Idaho Code § 67-6537, as may be amended; and

WHEREAS, this Resolution, policy and rule is in addition to the previously adopted policy and rules in August of 2003 concerning the division of property, transfer of shares, and the designation of a person/entity responsible for the shares when a shareholder divides, subdivides or parcels out any portion of their lands into three (3) or more parcels; and

WHEREAS, the intent of this Resolution and/or policy is to maintain and keep surface water deliveries of the Ditch Company on lands within the Ditch Company's service area/boundaries even as development occurs and to limit the amount of groundwater wells diverting using water for irrigation purposes, including the impacts on the aquifer(s) from said groundwater wells.

THEREFORE, BE IT RESOLVED THAT:

1. In addition to the requirements and approval already set forth in the Ditch Company's Articles of Incorporation and By-Laws relating to the division of property, transfer of shares and use and delivery of the Ditch Company's water rights, the Board of Directors requires that in compliance with Idaho Code § 67-6537, and any local ordinances requiring the same, and/or requirements of the Idaho Department of Water Resources, all shareholders must use surface water deliveries from the Ditch Company pursuant to the shareholders existing shares, prior to any use of ground



water for irrigation purposes;

2. An existing shareholder shall be required to retain all shares, and keep current, including paying all assessments and charges of the Ditch Company, all shares of the Ditch Company for the continued use and delivery of surface water from the Ditch Company for irrigation purposes. A shareholder may acquire and/or apply for a permit from the Idaho Department of Water Resources for the use of ground water for irrigation purposes but the acquired right or permit must be conditioned to require the continued use of surface water available from the Ditch Company as the primary source of irrigation water and the ground water right shall be deemed as a supplement source or supply of irrigation water for the early and late "shoulder seasons" or to supplement existing surface water deliveries of the Ditch Company. This Resolution/policy shall equally and uniformly apply whether the existing shareholder is developing, splitting or subdividing the shareholders land or whether the shareholders is not developing, splitting or subdividing the shareholders land.

3. This Resolution/policy is not intended to prevent a shareholder from acquiring or applying for a new ground water right for irrigation use, but rather is intended to ensure that the existing surface water available remains the primary source for irrigation use and ground water use is specified as supplement. The Ditch Company will continue to seek by protest, demand or request that any new application for a ground water right for irrigation purposes include the following standard conditions of the Idaho Department of Water Resources, as may be modified:

   a. The primary irrigation water for the place of use authorized under this right is surface water delivered by Farmers Co-Operative Ditch Company. The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert water under this right to irrigate land with appurtenant primary surface water rights when the primary surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for the irrigation district deliveries. The right holder shall not divert water for irrigation purposes under this right if use of the primary surface water rights is intentionally discontinued or reduced by the right holder (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code §42-222 or other Department approval; and

b. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

4. This Resolution/policy shall not apply to new water rights or wells for groundwater use which is exclusively intended for domestic purposes. This Resolution/policy is also not intended to prevent a shareholder from transferring or using existing shares on other lands in the Ditch Company's service area/boundary for irrigation purposes but said transfer or use may not occur if the use is intended to simply be replaced by groundwater use.

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CONTRACT FOR PURCHASE AND SALE OF WATER SHARES

This contract is entered into this 1st day of June 2020 by and between One More Mile LLC, an Idaho limited liability company and JC Watson Company.

WHEREAS, One More Mile LLC is a holder of 64 shares in Farmers Co-operative Ditch Company. These shares entitle One More Mile LLC to irrigate up to 2 acres per share under Farmers Co-operative Ditch Company's Articles and By-laws. The shares are not appurtenant to any parcel of land.

One More Mile LLC desires to sell and JC Watson Company desires to purchase 14 shares of One More Mile LLC's 64 shares in Farmers Co-operative Ditch Company.

WHEREAS, Farmers Co-operative Ditch Company has stated that it has the ability to deliver these 14 shares of water to points of diversion on the Farmers Co-operative Ditch system to JC Watson Company;

WHEREAS, One More Mile LLC has filed applications with the Idaho Department of Water Resources to obtain 14 separate water rights to irrigate 14 2-acre parcels of land within the boundaries of the Farmers Co-operative Ditch Company service area.

WHEREAS, Farmers Co-operative Ditch Company has protested the applications and its protests are pending before the Idaho Department of Water Resources.

WHEREAS, One More Mile LLC agrees to transfer the 14 shares of water rights to JC Watson Company upon final approval of the ground water rights for the 14 lots.

NOW THEREFORE, it is hereby agreed by and between One More Mile LLC and JC Watson Company that, upon entry of a final unappealable order in the water right protest proceedings approving issuance of the 14 water right permits, including any



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appeals thereof, One More Mile LLC will transfer to JC Watson Company 14 shares in Farmers Co-operative Ditch Company. JC Watson Company will pay as a consideration for the transfer of the 14 shares, the sum of $100.00/share for a total of $1,400.00.

Under Farmers Co-operative Ditch Company Bylaws, Section VI, transfer of the shares is valid between the parties, prior to approval of the transfer by Farmers Co-operative Ditch Company board of directors. Accordingly, upon transfer of the 14 shares between the parties, JC Watson Company shall be responsible for all assessments payable to Farmers Co-operative Ditch Company for the 14 shares and shall protect and indemnify One More Mile from any claims by Farmers Co-operative Ditch Company for any assessments for these 14 shares.

Dated this 1st day of June, 2020.

One More Mile LLC	JC Watson Company
AuthentiSIGN Craig S Froerer 06/01/2020	AuthentiSIGN Jon Watson 06/02/2020
By: Craig Froerer, Member	By: Jon Watson

REGULAR MEETING OF THE BOARD OF DIRECTORS
OF FARMERS' CO-OPERATIVE DITCH COMPANY
March 11, 2020

PRESENT: Directors Rod Nielsen, Bill Hartman, Tom Johnston, Mike Skogsberg, Kevin Miyasako, Michael Jemmett, Mike Nichols, Manager Vincent Sevy and Secretary Netty Enrico

GUESTS: Attorney Bryce Farris – Sawtooth Law Office
Jordan Zwygart – Zwygart John & Associates
Craig Froerer & Sharla Froerer – One More Mile, LLC
Matt Wilke – Realtor

Director Rod Nielsen called the meeting to order at 8:00 a.m. at the Farmers' Co-Operative Ditch Company Conference Room.

Approve March Agenda: Bill Hartman moved to approve the March Agenda. Seconded and carried by Mike Nichols.

Approve the February 12, 2020 meeting minutes: Meeting minutes were emailed for board members to review. Tom Johnston moved to approve the February 12, 2020 meeting minutes as written. Seconded and carried by Mike Nichols. Rod Nielsen signed the minutes.

Jordan Zwygart with Zwygart John & Associates was asked by board members to look in payroll laws to make sure we were in compliance allowing ditchriders to hold comp hours. Mr. Zwygart reported, since we are not a government agency we are not allowed by federal law to store comp hours. It was suggested we pay the ditchriders overtime for the hours worked.

Attorney Bryce Farris with Sawtooth Law Offices was also asked by board members to look into allowing ditchrider's to hold comp hours as well. Mr. Farris reported he asked his associate to look into this matter and her findings were the same as Mr. Zwygart, but we could also do a fluctuation work week. After some discussion, board members agreed to pay the ditchrider's overtime and should advise them to place their overtime in a savings account for winter time when they do not work a 40 hour week.

Board members thanked Mr. Zwygart for coming.

President Rod Nielsen introduced Craig Frorer and Sharla Froerer to board members and Matt Wilke introduced himself as a representative for Craig and Sharla in helping One More Mile, LLC develop 14 two acres lots located west on Apple Valley Road heading toward Nyssa. John Chandler started developing this property but did not finish as he was required to put an irrigation system in place. Mr. Wilke reported One More Mile, LLC applied with the Idaho Department of Water Resources for 14 wells to use as domestic water as well as irrigation water. Farmers' Co-Operative Ditch Company protested these applications based according to the Idaho Code 67-6537 as previously discussed during the February 12, 2020 meeting. Board members asked Mr. Wilke what their plans were for the rest of the 100 acres. Mr. Wilke responded, "They



are planning on developing 40 – 50 more 2+ acre lots with wells." Board members discussed with Mr. Wilke, since 2008, Farmers' Co-Operative Ditch Company required an irrigation system for this property. Mr. Farris also responded, shareholders have to use the surface water first if available and use well water as supplement according to Idaho Code. Mr. Farris reviewed options with board members: To stick with the protest or make an exception with conditions. Mr. Farris stated the Status Hearing with the Idaho Department of Water Resources is on March 19, 2020 at 9:00 a.m. located at the Western Regional Office in Boise and asked if a board member would be available to attend with him. After some discussion, no decisions were made and Mr. Wilke, Mr. Froerer and Ms. Richards left at 9:30 a.m.

Adopt Resolution: Attorney Bryce Farris reviewed the Resolution board members asked him to prepare during the February 12, 2020 meeting. (See attached) Board members discussed and agreed to adopt the resolution. Mike Skogsberg moved to adopt the Resolution as written. Seconded and carried by Bill Hartman.

Board members thanked Bryce for his findings regarding the comp hours and his guidance on One More Mile, LLC.

Review and Approve the February 2020 Financials and Account Payables: Board members reviewed and discussed the February financials and accounts payables. Vince discussed the financials regarding some excavator repairs. After some discussion, Director Mike Nichols moved to approve the February financials. Seconded by Kevin Miyasako. Motion carried. (See attached)

Approved April 1, 2020 to September 30, 2020 proposed budget and set the Spring Assessment: Board members reviewed and discussed the proposed budget. After discussing the ditchriders wages proposed, Mike Skogsberg moved to set the ditchriders wages at $20.00 per hour and pay them overtime according to Federal Law. Seconded and carried by Mike Nichols.

Mike Skogsberg moved to go into executive session at 11:23 a.m. Seconded by Mike Nichols. Manager Vince Sevy and Secretary Netty Davis was asked to leave. Roll call was taken: Rod Nielsen – Yay, Tom Johnston – Yay, Michael Jemmett – Yay, Kevin Miyasako – Yay, Mike Skogsberg – Yay, Mike Nichols –Yay, Bill Hartman – Yay

With all in attendance, board member came out of executive session at 12:30 p.m., board members reviewed with Manager Vince Sevy's 6 month salary and vacation contract as agreed on September 13, 2019. Board members set Manager Vince Sevy's salary at $31,750 for 6 months and will have another 6 month review during the September 2020 regularly scheduled board meeting.

As proposed in the April 1, 2020 through September 30, 2020 budget, board members agreed to increase the ditch riders wages to $50,000 and decrease the Managers wages to $32,000 for a total budget of $227,475. Tom Johnston moved to approve the April 1, 2020 through September 30, 2020 budget and set the assessment at $33.00 per share. Seconded by Mike Nichols. Motion carried.

Stock Transfers: None at this time.

Secretary Report: None at this time.

Managers' report:

- Replaced batteries at all automation sites except the main gate.
- Installed the spill tube at the organic farm. Theirs was rusted out and taking away the upper bank.
- Installed 88 checkboards at various checks.
- Met with Tyler Archibald with Idaho Fish and Game to see if they would dip the silt on his side of the train tracks. After some discussion, Rod Nielsen reported Drain District #3 has an agreement with the rail road and they are responsible for maintaining the pipe as Drain District #3 has an agreement with Farmers' Co-Operative Ditch Company to help maintain the pipe as well.
- The sediment pond is completely cleaned out. The hole that drained the pond has been filled in with bentonite and replaced with gravel.
- Mike & Paul have been burning the canal. We have used 267 gallons of propane so far.

Information:
Board members agreed, the next regular scheduled meeting will be held April 8, 2020 at 8:00 a.m.

Director Rod Nielsen asked if there was any further business to be conducted by the board. Kevin Miyasako moved to adjourn at 12:57 p.m. Seconded and carried by Bill Hartman.

William J Hartman V.P

Rod Nielsen — 5-13-20

President, Rod Nielsen — Date

Annette Enrico — May 13, 2020

Secretary, Annette Enrico — Date



EXHIBIT
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EXHIBIT 5

Minutes of the Annual Meeting of the Stockholders
Of
Farmers' Co-Operative Ditch Company

Our office, Parma Wednesday, January 19, 2005

Rod Nielsen, President, called the meeting to order at 2:00 p.m.

Stockholders present were Hans Gotsch, Rod Nielsen, Ken Nelson, Rex Nichols, Bill Hartman, Mike Skogsberg, Bob Stephens, Donald Doersch, Bim Lewman, and Linda Lewman. Also present were A. J. Maupin, landowner in Kora Estate subdivision, Bernard Weygint, Watermaster, and Jerry Stone, Secretary. Also known as

The secretary read the minutes of the 2004 Annual Stockholders' Meeting. The minutes were approved as read.

The President and stockholders reviewed the 2004 Annual Financial Statement. After the review, Mike Skogsberg moved, with the motion seconded by Bill Hartman, to approve the 2004 Annual Financial Statement. Motion carried.

Donald Doersch, shareholder, moved that all existing directors be re-elected as directors for 2005. Bim Lewman, stockholder, seconded the motion. Motion carried.

Rod Nielsen gave a report on the recent Annual Meeting of Water District No. 63, which manages the Boise River. Prospects look for about 80% of normal water flow for the Boise River this year.

Rod Nielsen discussed the 2004 Resolution of our Company as it relates to Tonya Hansen and A. J. Maupin in connection with a pending subdivision of the Masa Kora Estate property. The board and the visiting parties appeared to be on the way to working out ways to resolve these matters for the benefit of both parti9es.

With no further business appearing, the 2005 Annual Stockholder' meeting adjourned for refreshments at 2:40 p.m.

Dated this _____ day of _____, 2006.

_____ _____
President Secretary

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma Wednesday, January 19, 2005

Rod Nielsen, President, called the meeting to order at 1:00 p.m.

Directors present were Rod Nielsen, Bob Stephens, Hans Gotsch, Bill Hartman, Mike Skogsberg, Ken Nelson, and Rex Nichols. Also present were Garry Williams, Watermaster, and Jerry Stone, Secretary.

Jerry Stone, Secretary, read the minutes of the December 15, 2004 board meeting, which were approved as read.

The December financial statement was accepted as presented by President Nielsen.

The president and directors reviewed the December Accounts Payable Schedule. Bill Hartman moved, with the motion seconded by Bob Stephens, to approve the December accounts payable in the total amount of $21,913.95. Motion carried.

Bob Stephens reported that he had been in touch with Gary Vezzoso. Bob told Mr. Vezzoso that Farmers' Coop wanted separate bids for our property as such and for the gravel *on* the property. Mr. Vezzoso didn't seem to like this idea, and he said that he might want to ask us for an easement at the site. Bob said Farmers' Coop should decide how much we would charge for such an easement. However, the directors took no action with respect to this recommendation by Bob Stephens.

Mr. A. J. Maupin, Wastewater Program Engineer for the State of Idaho Department of Environmental Quality, arrived at the meeting at 1:53 p.m. His visit to the meeting of the Board of Directors had to do with current matters of the Masa Kora Estate as they had to do with water deliveries from our company. He was told by the board that what would be required in this matter is a Homeowners' Association rather than a Lateral Users' Association.

The date for the next board meeting was set for Wednesday, February 16, 2005, at 1:00 p.m.

The discussion with A. J. Maupin was concluded exactly at 2:00 p.m., which was the time which had been set for the 2005 Annual Meeting of the Stockholders. Therefore, the meeting of the Board of Directors adjourned at this time.

Dated this day of , 2005.

President Secretary

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma — Wednesday, January 18, 2006

Rod Nielsen, President, called the meeting to order at 1:10 p.m.

Directors present were Rod Nielsen, Rex Nichols, Bob Stephens, Mike Skogsberg, Bill Hartman, and Hans Gotsch. Also present were Garry Williams, Watermaster, and Jerry Stone, Secretary.

Jerry Stone, Secretary, read the minutes of the December 14, 2005 board meeting, which were approved as read.

The December financial statement was accepted as presented by President Nielsen.

The president and directors reviewed the December Accounts Payable Schedule. Mike Skogsberg moved, with the motion seconded by Bob Stephens, to approve the December accounts payable in the total amount of $24,118.07. Motion carried.

Rod Nielsen read a letter which was received from Tonya Hansen regarding the property that she purchased from the Kora Trust. Mrs. Hansen would like the Board of Directors to reconsider or make an exception to the Company Resolution that states if a property is being split into three or more parcels, a homeowners association must be formed to own the water shares and provide for the equitable delivery of irrigation water to the parcels within the subdivision. The Secretary was instructed to write a letter to Mrs. Hansen reiterating the Company policy regarding subdivisions and also stating that the Board cannot go against the Resolution regarding subdivisions.

Rod Nielsen stated that the board will discuss gopher control issues regarding some of our stockholders' properties in the February directors' meeting.

Bill Hartman read a letter from Bo Hilliard regarding the Company's easement near Shelton Road. Bill Hartman will talk to Bo Hilliard about this matter.

Don Winslow and his daughter appeared at the meeting; Mr. Winslow asked when repairs will be made near their property. The Winslows are asking for the berm to be moved. Mr. Winslow and his daughter were assured that as soon as the weather dries out Garry and his crew will come out and clean up. Don Winslow stated that he wanted Garry to come in and haul away the gravel and move the berm as soon as possible.

The directors' meeting temporarily adjourned for the Annual Stockholders' Meeting.

At 3:10 p.m. the directors' meeting was re-convened.

The three stock transfers pending were:

1.	Piercy to Asumendi	1	share
2.	Sorenson Farms to Payne	38.5	shares
3.	Garrison to Kostenko	2	shares

After discussion, Bill Hartman moved, with the motion seconded by Mike Skogsberg, that the transfers be approved as listed. Motion carried.

Garry Williams report was as follows:

1) Matter of Xylene for mossing – how much to order: Garry told the board about 2,000 gallons at $6.00 per gallon (approx.)

easement for canal maintenance wide enough to safely accommodate our canal equipment. Motion carried.

This letter will be drafted after Rod speaks with our attorney regarding this issue.

Rod Nielsen announced the 2006 Applicator Recertification Workshop on February 24, 2006. It was decided to send Mitch Williams to this workshop even though he isn't required to have an applicator's license.

Rod also announced the 2006 Ditch Rider Workshop on March 17, 2006. Garry, Mike, and Mitch will all attend this workshop.

The four stock transfers pending were:

1.	Krantz to Law	2	shares
2.	Krantz to Douglas	5	shares
3.	Race to Race	5	shares
4.	Griffin Trust to Griffin	5	shares

After discussion, Bob Stephens moved, with the motion seconded by Bill Hartman, that the transfers be approved as listed. Motion carried.

Sheila reported that we had received new maps from the Idaho Department of Water Resources. She discussed the next steps in the adjudication process. (It was discovered shortly after the meeting adjourned that the maps did not contain the changes that we had made. Sheila will notify the contact person regarding the errors.)

Garry Williams report was as follows:

1) Dollie liams daughter-in-law says they will sue the Company if we remove the old bridge.
2) There is live water near the outbuildings owned by Dollie liams.
3) The liams claim that Chet liams used to have an agreement with the Company that the ditch crew would use the liams driveway instead of an easement. Bill Hartman and Bob Stephens will visit with the liams regarding these matters.
4) Garry stated that the following items still needed to be done before the water comes in:
   a. Metal braces on #13c
   b. Fix Denny Ragains headgate
   c. Fix the Krantz gate
   d. Pipe on #49 and #47
   e. Ken Nelson gate – the check wall fell – needs to be replaced.
5) Need a new chain saw.
6) Earl Nielsen matter. Mr. Nielsen owns 2 shares. The issue of how Mr. Nielsen is supposed to get his water needs to be researched in the minutes of when the Apple Valley Estates Subdivision was built.
7) Bob Stephens got prices on the pipe to be used on the spill near Ken Nelson's property.
8) Garry should have Dallas Holton go from Gotsch Road to Market Road and do a "touch-up" on our canal.
9) Plans were made for more canal cleaning by Dallas Holton.
10) Garry was instructed to remove the berm at the Don Winslow property as soon as possible.

The board directed that a form letter be sent out with the 2006 Spring Water Stock Assessments recommending gopher control measures to our shareholders.

The next meeting was set for Wednesday, March 15, 2006, at 1:00 p.m.

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma Wednesday, July 12, 2006

Rod Nielsen, President, called the meeting to order at 1:00 p.m.

Directors present were Rod Nielsen, Hans Gotsch, Ken Nelson, Mike Nichols, Bob Stephens, and Bill Hartman. Also present were Garry Williams, Watermaster, and Jerry Stone, Secretary.

A retirement plaque and gift were presented to Rex Nichols.

Dennis Ragains, shareholder, was introduced to the board by President Rod Nielsen. Mr. Ragains described a recent development involving the Masa Kora Estate Subdivision. Mr. Ragains does not want to share the headgate he is currently using and is proposing that an additional headgate be installed to serve the new owners of the parcels in the Masa Kora Estate Subdivision. Clay and Tonya Hansen, owners of one of the parcels in this subdivision, also entered the meeting as guests. Mr. and Mrs. Hansen have been getting their irrigation water from the headgate that Mr. Ragains is currently using. After discussing the situation, Hans Gotsch suggested that the Farmers' Co-Operative Ditch Co. board of directors go out to the several sites involved in this situation. The consensus of the board was to visit the area to get a better "picture" of the situation. The guests were informed that the board would visit the area. (Rod Nielsen, Hans Gotsch, and Mike Nichols visited the area following this board meeting.)

Jerry Stone, Secretary, read the minutes of the June 14, 2006 board meeting, which were approved as read.

The June financial statement was accepted as presented by President Nielsen.

The president and directors reviewed the June Accounts Payable Schedule. Mike Nichols moved, with the motion seconded by Ken Nelson, to approve the June accounts payable in the total amount of $9,605.48. Motion carried.

Ken Nelson reported that Clint Koplin had started the maintenance road grading from Grandview to Parma Road, but there was not enough moisture for the job.

The one stock transfer pending was
:

1. Lierman to Paepeghem 1 share

After discussion, Bill Hartman moved, with the motion seconded by Hans Gotsch, that the transfer be approved as listed. Motion carried.

Garry Williams, Watermaster's Report:

1. The truck needs a new air bag.
2. We need to haul away trash from our pile at $15 a load. The pile is next to the Rolls Place.
3. Mitch has been spraying; and Mike will be doing some work with the backhoe.
4. Garry will inquire about joining up with a chemical pool

Bill Hartman reported that Russ Klahr had contacted him and explained how his water system operated and that Mr. Klahr defended his practices.

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma Wednesday, August 16, 2006

Rod Nielsen, President, called the meeting to order at 1:05 p.m.

Directors present were Rod Nielsen, Ken Nelson, Mike Nichols, Bob Stephens, and Bill Hartman. Also present were Garry Williams, Watermaster, and Jerry Stone, Secretary.

Shane Symons was introduced to the board; he is employed by Joel Van Lith. Mr. Symons stated that he and Mr. Van Lith, Clay and Tonya Hansen, and A. J. and Roberta Maupin do not want to form the homeowners association as required by Farmers' Co-Operative Ditch Company's resolution regarding subdivisions. He stated that their position is that since Masa Kora, Jr. (Trustee of the Masa Masao Kora Revocable Trust) had the responsibility for forming the homeowners association and did not do so, it should not be the responsibility of the buyers of the property sold by the Kora Trust to form the association. Mr. Symons proposal was for the board to issue shares to each of the parties involved according to their respective acreages; then Mr. Van Lith will form a homeowners association for the property he owns, which has been split into 4 parcels. Rod told Mr. Symons that he would let him know the decision of the board within a week.

Ray Waldo, of Field-Waldo Insurance Agencies, was introduced to the board. Mr. Waldo presented two proposals for insurance to the board. The first was a new proposal from Safeco for our equipment, vehicles, buildings, etc. The second proposal was for our general liability insurance. After the proposals were presented, it was the consensus of the board that we accept the proposals for insurance.

Steve Sweet, an engineer with Quadrant Consulting, Inc., was introduced to the board at 2:25 p.m. Mr. Sweet discussed our diversion structure in the Boise River; he stated that at 8 feet tall our structure is the tallest structure of its kind on the Boise River. His advice was that we seek good professional advice on how to manage this structure. Mr. Sweet recommended that the board do the following:

1) Contact Lee Sisco, Boise River Watermaster, for his advice.
2) Contact Brian Sauer, U. S. Bureau of Reclamation, for possible grants to apply for and also for his advice.
3) Contact Scott Patton, Idaho Department of Water Resources, for possible help with this structure.
4) Contact FEMA for possible flood mitigation, etc.
5) Contact NRCS Agency.
6) Contact Jerry Glenn, Chairman of Flood Control District No. 11, for his advice.

Mr. Sweet recommended that we get an estimate from the U. S. Bureau of Reclamation as to the estimated total cost of major repairs to our diversion structure. Steve's own estimate is in the $100,000 range. He also recommended public warning signage near the diversion: "WARNING – DANGER AREA", etc.

J. D. and Renee Matherly entered the meeting at 3:00 p.m. They said that Floyd Stutheit is selling some of his property. The Matherly's issue is that they want to continue using the water. Bill Hartman told Mr. & Mrs. Matherly that they can file for a waste water right claim on or before October 1, 2006, with the Idaho Department of Water Resources for the water they are using. If their claim is approved, they can use this water as long as it is available. The Matherly's left the meeting at 3:15 p.m.

At 3:20 p.m. Rod told the board that he had talked to our attorney, who had reviewed the letter from Tonya and Clay Hansen's attorney regarding the board's refusal to transfer shares to the individual

owners involved in the Masa Masao Kora Revocable Trust property purchases. Rod stated that our attorney advised him that the board should probably accommodate the parties involved in this situation to avoid litigation.

At 4:00 p.m. Rod asked for Jerry Stone to read the minutes of the last board meeting. Jerry Stone, Secretary, read the minutes of the July 12, 2006 board meeting, which were approved with the following correction: Bob Stephens was not present at the July 12, 2006 board meeting.

The July financial statement was accepted as presented by President Nielsen.

The president and directors reviewed the July Accounts Payable Schedule. Ken Nelson moved, with the motion seconded by Mike Nichols, to approve the July accounts payable in the total amount of $7,089.78. Motion carried. The board authorized the secretary to pay Baird Oil for fuel as invoices come due to receive discounts earned in the future.

Rod Nielsen read a letter from Carol DeHaven Skerjanec, an attorney from Vale, Oregon, who has been retained by Dennis and Bonnie Ragains. The secretary was instructed to write a letter of reply to Ms. Skerjanec as requested in her letter. Garry Williams, Watermaster, will visit with Dennis Ragains regarding this matter and will advise the secretary of what to put in the letter. When the letter is written, a copy is to be sent to Rod Nielsen for his input before it is mailed to Ms. Skerjanec.

The seven stock transfers pending were

1.	Lewman to Lewman (replacement for lost certificate)	60	shares
2.	Branvold to Mendes (sale)	2.5	shares
3.	Porath to Kennedy (sale)	2.25	shares.
4.	Yeakel to Burt (sale)	1	share
5.	Yeakel to Yeakel (split certificate)	21.5	shares
6.	Reynolds to Roberts (sale)	2	shares
7.	Martinez to Elliott & Gilliand (sale)	2	shares

After discussion, Bill Hartman moved, with the motion seconded by Mike Nichols, that the transfers be approved as listed, with the exception of Reynolds to Roberts and Martinez to Elliott and Gilliand. The Reynolds transfer is approved for transfer when Mr. Reynolds comes in and endorses the stock certificate and the Martinez transfer is approved for transfer when the endorsed stock certirficate or a lost stock affidavit is received. Motion carried.

After additional discussion regarding the Kora Estate Subdivision, the board decided to call Bryce Farris, attorney, to discuss the letter from the Hansen's attorney. Bryce Farris advised the board that the Company should consider allowing an exception to the Hansens, Maupins, and Van Lith. He stated that the Company would not be going against their resolution, but would be allowing this situation to fall into a "loophole" due to their unique circumstances and the timing of the initial splits of the property. He stated that the board should "pick their fights" and he believed that this was not the time to fight; and that the board should consider the "loophole" option and transfer the appropriate number of shares to the individual parties involved. After the telephone conversation with Bryce Farris, the board continued to discuss this issue.

Due to the lateness of the hour, the board temporarily adjourned the meeting at 5:30 p.m. and will reconvene at 1:00 p.m. on Monday, August 21, 2006.

August 21, 2006

The adjourned meeting of August 16, 2006, was reconvened and called to order by Rod Nielsen at 1:10 p.m.

Directors present were Rod Nielsen, Mike Nichols, Bob Stephens, Ken Nelson, Mike Skogsberg, and Bill Hartman. Also present were Garry Williams, Watermaster, and Jerry Stone, Secretary.

Garry Williams, Watermaster's Report:

1. The crew is mowing.
2. Digging bucket needs repairs.
3. The wiring for the gauges had been put in.

The board continued their discussion regarding the request from Tonya and Clay Hansen's attorney that the board transfer shares to the individual parties involved in the purchase of lands from the Masa Masao Kora Revocable Trust. Rod Nielsen brought Mike Skogsberg "up to speed" on the history of this issue. Rod and the directors discussed this issue at length. After the discussion, it was moved by Bob Stephens, with the motion seconded by Mike Skogsberg, that the board will not grant the Hansen's request for the transfer of 6.5 shares from the Masa Masao Kora Trust Stock Certificate to Clay and Tonya Hansen, 8 shares to Andrew and Roberta Maupin, and 6 shares to Joel Van Lith, but that we require these three parties to follow our Company Resolution Regarding Subdivisions, dated August of 2003. The motion was carried by unanimous vote.

The next meeting was set for Wednesday, September 13, 2006, at 1:00 p.m.

With no further business appearing, the meeting adjourned at 3:30 p.m.

Dated this 13th day of September, 2006.

President Secretary

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma — Wednesday, September 13, 2006

Rod Nielsen, President, called the meeting to order at 1:25 p.m.

Directors present were Rod Nielsen, Bill Hartman, Mike Nichols, and Ken Nelson. Also present were Garry Williams, Watermaster, and Jerry Stone, Secretary.

Gary Smith and Dave Burrious entered the meeting. Gary Smith needs to purchase shares of Farmers' Co-Operative Ditch Company water stock for the property he purchased at a foreclosure sale. The previous owners of the property he purchased lost their water shares for nonpayment of the assessment. Mr. Smith and Mr. Burrious were attending this board meeting to get approval for Mr. Burrious to sell Mr. Smith one share of Farmers' Co-Operative Ditch Co. stock. Mr. Smith and Mr. Burrious left the meeting at 1:45 p.m.

At 1:45 p.m. Joe Myers entered the meeting. Mr. Myers purchased some property from Paul Dinger. He purchased the property without purchasing water shares from Mr. Dinger. The owners of this property previous to Mr. Dinger lost the one-half share of water due to nonpayment of the assessment. Mr. Myers was requesting that the board authorize the sale of one-half share of stock. The board advised Mr. Myers that the only way to purchase one-half share of stock was to purchase from a private party or at auction a certificate that held only one-half share. Mr. Myers left the meeting at 2:00 p.m.

The board instructed the secretary to maintain a list of people who wish to buy shares of Farmers' Co-Operative Ditch Company.

Jerry Stone, Secretary, read the minutes of the August 16, 2006 board meeting, which were approved as read.

The August financial statement was accepted as presented by President Nielsen.

The president and directors reviewed the August Accounts Payable Schedule. Mike Nichols moved, with the motion seconded by Bill Hartman, to approve the August accounts payable in the total amount of $28,638.30. Motion carried.

The board discussed the spillway at Grandview. The project is approximately 600 feet in length with roughly 20 feet of fall. The solution to the problem is apparently to pipe the project, but a larger circumference of pipe will be required than what was originally planned. Bill Hartman moved that Bob Stephens be appointed to look into the Grandview Spillway project. The motion was seconded by Mike Nichols and carried.

The six stock transfers pending were:

Reynolds to Sutton	2 shares
Peterson to Chandler	64 shares
Peterson to Peterson	5 shares
Griffin Trust to Steinhaus	2.5 shares
Waters Estate to Patterson	2 shares
Kora Estate to Hurtz Road Water Users' Association	20.5 shares

(It was explained that the transfer from Reynolds to Roberts as approved in the August meeting was not done because the sale from Reynolds to Roberts fell through.)

After discussion, Mike Nichols moved, with the motion seconded by Ken Nelson, that the transfers be approved as listed. Motion carried.

(It will be noted that on September 14, 2006, that Rod Nielsen, President, polled the directors present at the Board of Directors' meeting on September 13, 2006, regarding the stock transfer from the Kora Estate to The Hurtz Road Water Users' Association, 20.5 shares. It was agreed to add this stock transfer to those approved on September 13, 2006. Mike Nichols agreed to add this transfer to his motion of September 13, 2006, and Ken Nelson agreed also as seconding that motion.)

Garry Williams, Watermaster's Report:

1. Crew will move our old safe from Hubert Iverson' place to the company shop at Caldwell.
2. Crew has been busy checking headgates and managing changing water flows due to the tapering off of irrigation.
3. Bill Hartman asked Garry Williams to prepare a list of needed maintenance projects to bring to the next meeting.

The directors reviewed IDWR's Preliminary Director's Report for the Farmers' Co-Operative Ditch Company's water rights. Our total irrigated acres to be recommended are 15,093 acres. The deadline for turning in the Notice of Errors is September 29, 2006. After the review, Bill Hartman moved, with the motion seconded by Mike Nichols, that President Rod Nielsen be authorized to sign the Notice of Errors, indicating that we have found no errors in the information provided in the preliminary report. Motion carried.

The next meeting was set for Wednesday, October 11, 2006, at 1:00 p.m.

With no further business appearing, the meeting adjourned at 4:00 p.m.

Dated this 11th day of October, 2006.

President Secretary

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma — Wednesday, January 16, 2008

Rod Nielsen, President, called the meeting to order at 1: 05 p.m.

Directors present were Rod Nielsen, Bill Hartman, Ken Nelson, Bob Stephens, Mike Nichols, Mike Skogsberg, and Tom Johnston. Also present were Garry Williams, Watermaster, and Sheila Seeman, Secretary.

Rod Nielsen read the minutes of the December 13, 2007 board meeting. Bill Hartman moved, with the motion seconded by Tom Johnston, to approve the minutes as read. Motion carried.

The December financial statement and December Accounts Payable Schedule were presented by the president. After discussion, Tom Johnston moved to accept the financial statement and the accounts payable in the total amount of $21,937.69. The motion was seconded by Mike Nichols and carried.

A letter from Tonya Hansen was read and discussed by the board. The secretary was directed to write a letter to Mrs. Hansen to let her know that her request was denied and refer her to the highlighted portion of the Hurtz Water Users Group agreement.

The Sand Hollow and Conway projects were discussed. The permit from the Army Corps of Engineers should be available in a few days. Shot rock was put in as a base at Sand Hollow to allow the water to seep through.

The meeting was temporarily adjourned for the Annual Stockholders' Meeting at 2:00 p.m.

The meeting reconvened at 3:10 p.m.

Garry Williams, Watermaster's Report:

1) Taking out trees by Dale Morgan's.
2) Can't get in to pour concrete – too muddy
3) George Myers put in a fence and now we can't get in to the canal.

The Winslow case was discussed.

Tom Johnston moved that the board look into purchasing a 150 gal propane tank and trailer for burning weeds. The motion was seconded by Mike Nichols and carried.

Mike Nichols will check into the cost of a rental tractor-pulled burner.

The next meeting was set for Wednesday, February 13, 2008, at 1:00 p.m.

With no further business appearing, the meeting adjourned at 4:10 p.m.

Dated this 13th day of February, 2008.

President — Secretary

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma Wednesday, March 12, 2008

Rod Nielsen, President, called the meeting to order at 1:05 p.m.

Directors present were Rod Nielsen, Bill Hartman, Ken Nelson, Bob Stephens, and Tom Johnston. Also present were Richard Tracy, Shareholder, Ritchie Tracy, Guest, Garry Williams, Watermaster, and Sheila Seeman, Secretary.

Richard Tracy discussed with the board various problems he has with an underground ditch through his property, as well as other problems with a subdivision going in around his property. Rod Nielsen and Bill Hartman will meet with Mr. Tracy and representatives from the subdivision and discuss the problems. Peterson Subdivision

Rod Nielsen read the minutes of the February 13, 2008 board meeting. Bill Hartman moved, with the motion seconded by Tom Johnston, to approve the minutes with the correction of the spelling of AFLAC. Motion carried.

The February financial statement and February Accounts Payable Schedule were presented by the president. After discussion, Tom Johnston moved to accept the financial statement and the accounts payable in the total amount of $64,576.91. The motion was seconded by Bill Hartman and carried. (The secretary will correct the dates of the Bank of Cascade portion of the financial statement.)

After a lengthy discussion of the spring 2008 budget, Tom Johnston moved, with the motion seconded by Ken Nelson, to set the 2008 Spring Assessment at $20.00 per share. Motion carried.

Tom Johnston moved to set the minimum assessment per shareholder at $20.00. The motion was seconded by Bill Hartman and carried.

The secretary was directed to send a letter with the assessment statements, which explains the necessity of raising the assessment to $20.00 per share. The letter should include the approximate amount spent on the Sand Hollow and Conway projects.

Rod Nielsen discussed the Winslow case with the board. He stated that he and Garry L. Williams' will be deposed by the Winslow attorney on the 26th of March. Rod and Garry will meet with our attorney, Mr. Casey on the 20th of March. Mr. and Mrs. Winslow will be deposed by Mr. Casey on the 25th of March.

The board directed Garry L. Williams to turn the water into the canal on March 27, 2008.

Garry Williams, Watermaster's Report:

Rod Nielsen dispensed with the Watermaster's report due to the length of the meeting.

The one stock transfer pending was as follows:

Odiaga to Murgoitio	75 shares

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma Tuesday, November 11, 2009

Rod Nielsen, President, called the meeting to order at 1:00 p.m.

Directors present were Rod Nielsen, Ken Nelson, Bill Hartman, Tom Johnston, Mike Nichols, Mike Skogsberg, and Dell Jemmett. Also present were Bryce Farris, Attorney; Scott and Lisa Barrett and A. J. Maupin, Rocky Road Water Users Group; Garry Williams, Watermaster; Mike Florom, Equipment Maintenance Supervisor; and Sheila Seeman, Secretary.

The minutes of the October 13, 2009 board meeting were read by Rod Nielsen, President. Bill Hartman moved to approve the minutes. The motion was seconded by Tom Johnston and carried.

The October Financial Statement and Accounts Payable were presented by Rod Nielsen, President. Tom Johnston moved, with the motion seconded by Mike Nichols, to accept the Financial Statement and the Accounts Payable. Motion carried.

Rod Nielsen read a letter from Robert Jackson, Attorney for Tonya and Clay Hansen. This letter was answered by our attorney Bryce Farris. The subject of the letter from Mr. Jackson was whether or not Tonya and Clay Hansen could force Farmers' Co-Operative Ditch Company to separate the Hansen's portion of the Hurtz Road Water Users Group's water shares and issue them a separate certificate.

Rod Nielsen also read a letter from our attorney to Scott and Lisa Barrett regarding the Hurtz Road Water Users Group. This letter explained to Mr. & Mrs. Barrett how Farmers' Co-Operative Ditch Company issued stock and collected the assessments on the shares.

A letter from Clint Casey, our attorney in the Winslow case was read by Rod Nielsen. In his letter, Mr. Casey gave a possible explanation of why we lost the lawsuit. He suggested that the Company have a disaster plan in place, such as sand bags, stock piles of rock, etc. strategically placed along the canal. Mr. Casey indicated that he had prepared some post trial motions for Safeco Insurance to consider and he will let us know the outcome of that.

Pending stock transfers were as follows:

1)	Winship to Stein	1 share
2)	Winship to Winship	1 share
3)	Marchbanks to Bicandi	71.66 shares

After discussion, Mike Nichols moved to approve the transfers as listed. The motion was seconded by Bill Hartman and carried.

Tom Johnston reported that Layne Pump Company can fix the motor and can get a new pump assembly for the Sand Hollow pump for $6,182.00. After discussion, Mike Nichols moved, with the motion seconded by Dell Jemmett, to purchase a new pump assembly and have the motor repaired on the Sand Hollow pump. Motion carried.

Garry Williams, Watermaster's Report:

1. Loading and hauling rock; building road from Farmway to Motor West.

Equipment Maintenance Report – Mike Florom:

1. While working on the road project, Mitch got his finger caught in the tailgate of the dump truck; his finger was all but severed. He was taken to the hospital by ambulance where they re-attached his finger.

At this point our attorney, Bryce Farris entered the meeting to discuss the Hurtz Road Water Users Group, the Winslow case and various other water safety and control issues.

Scott and Lisa Barrett and A. J. Maupin were invited into the meeting. A. J. Maupin stated that he had been chosen to represent the Hurtz Road Water Users Group. The Group would like some sort of water riser to help in getting a better head of water to one of their headgates.

With no further business appearing, the meeting was adjourned.

Dated this 9th day of December, 2009.

President

Sheila Seeman
Secretary

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma — Wednesday, June 11, 2003

Hubert Iverson, President, called the meeting to order at 10:00 a.m.

Directors present were Hubert Iverson, Ken Nelson, Rod Nielsen, Bill Hartman, Hans Gotsch, and B Stephens. Also present were Bernard Weygint, Watermaster, and Jerry Stone, Secretary.

The minutes of the May 14, 2003, board meeting were read by the secretary and were approved read.

The May financial statement was presented by the secretary and was approved as presented.

The President and directors reviewed the May accounts payable schedule. After the review, Ha Gotsch moved, with the motion seconded by Rod Nielsen, to approve the May accounts payable in t total amount of $11,562.14. Motion carried.

Hubert Iverson reported that our attorney, Dan Steenson, has stated that there are developmen happening regarding the Nez Perce Indian Tribe claims matter. He may want to have a special meetin to discuss these developments with the board in the very near future.

City of Nampa

After discussion, Rod Nielsen moved, with the motion seconded by Ken Nelson, that we send a lett to Dale and Linda Brock explaining that we need an irrigation plan submitted to the board fo approval, and after the approval of an irrigation plan the stock transfers will be approved for transfer t the individual owners. Motion carried.

After further discussion, Rod Nielsen moved, with the motion seconded by Bill Hartman, to approve the following stock transfers:

Nelson Farms/Kenneth & Norma Nelson to Reynolds	2 shares
Foy W. Brown to Georgia & Dowie Proctor, Sr.	2.5 shares

Motion carried.

The secretary reported that he had contacted Frontier Telephone Company regarding the placement o our Caldwell telephone number (208-459-9102) in the Parma section of the 2003-2004 Homedale Directory. Frontier responded that we could place the listing for $1.50 per month, with a one-time setup fee of $11.00. The secretary was directed to place the order for the listing in the 2003-2004 Homedale Directory.

The next board meeting was set for Wednesday, July 16, 2003 at 10:00 a.m.

With no further business appearing, the meeting adjourned at 11:35 a.m.

Dated this 16th day of July, 2003

P. Hubert Iverson — Jerry Stone

President — Secretary

Hubert read a request from the Idaho Water Users Association for a donation of $.25 per acre for the Federal Instream Flow/ESA Coalition legal fees. Hans Gotsch moved that we donate $4,000 to the Coalition. The motion was seconded by Bill Hartman and carried.

Dan Steenson, attorney, entered the meeting at 11:25 a.m. The board went into executive session to discuss with Dan the matters contained in two handouts, which were distributed to the board members.

1. A memo dated 7/15/03 from Terry Uhling to the Federal Claims Coalition
2. Upper Snake Term Sheet – Mediation Goals for Water Users

No action was taken during the executive session.

After the executive session, the consensus of the Farmers' Co-Operative Ditch Company board is that the Company is opposed to this proposed deal as it is shown in the Term Agreement. Dan will draft a letter expressing our position and fax the same to the secretary this afternoon. Upon our approval, the letter will be forwarded to Terry Uhling.

On other matters, Dan was asked to draw up a policy for requiring a homeowners association to hold shares and arrange for water delivery and drainage where land under Farmers' Co-Operative Ditch Company irrigation is being subdivided.

The next board meeting was set for Wednesday, August 13, 2003 at 10:00 a.m.

With no further business appearing, the meeting adjourned at 1:15 p.m.

Dated this 13th day of August, 2003

President

Secretary Jerry D. Stone

RINGERT LAW
CHARTERED LAWYERS

Laura E. Burri
Adam S. Christenson
Jeffrey R. Christenson
David P. Claiborne
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger **
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid *
Daniel V. Steenson

October 22, 2009

Scott and Lisa Barrett
535 Shadybrook Dr.
Spring Creek, NV 89815

Re: Assessments by Farmers' Co-Operative Ditch Company.

Dear Mr. and Mrs. Barrett:

I am writing to you on behalf of the Farmers' Co-Operative Ditch Company (Ditch Company). I have been provided your letter dated October 13, 2009 to the Ditch Company and I understand that you have questions regarding the Ditch Company's assessments.

As I am sure you have already been informed by the Ditch Company, the Ditch Company passed a Resolution in August of 2003 requiring that when a property is divided into three or more parcels, the shareholder must designate a person or entity that is responsible for the ownership of the property so divided and the shares shall be transferred to the designated person or entity.

With regard to the property which is now part of the Green Acre Estate Homeowners Association, the property and Ditch Company shares were originally owned by the Masa Kora Trust, which was then split and was subject to the requirements of the above-referenced Resolution. The shares for the property were eventually transferred to the Hurtz Road Water Users Group. The fact that the property has been subsequently divided a second time and the Green Acre Estate Homeowners Association has been established does not alter or change the requirements of the Resolution. In other words, a division of property which requires the designation of one person or entity to own the shares is not undone or voided because of a subsequent split of the same property.

If the members of the Green Acre Estate Homeowners Association desire to designate the association as the responsible party for any all assessments to the Hurtz Road Water Users Group, then that is between the Green Acre Estate Homeowners Association and the Hurtz Road Water Users Group. For that matter, the amount of assessments charged by the Hurtz Road Water Users Group, which is different from the assessments of the Ditch Company, is also between the Green Acre Estate Homeowners Association and the Hurtz Road Water Users Group. With regard to the assessments of the Ditch Company, the Ditch Company shares shall remain with the Hurtz Road Water Users Group and the Ditch Company will continue to expect that the payment of said

assessment be one payment from the Hurtz Water Users Group.

Please contact me should you have any questions.

Yours very truly,

S. Bryce Farris

SBF:kw

cc: Farmers' Co-Operative Ditch Company
The Hurtz Road Water Users Group, P.O. Box 11, Parma, ID 83660
Joel and Michelle VanLith, 18641 Chicken Dinner Rd., Caldwell, ID 83607

October 13, 2009

Farmer's Cooperative Ditch Company
P.O. Box 729
Parma, ID 83660

Re: Agenda for November 11, 2009

To Farmer's Coop Ditch Company Board Members;

We would like to request permission to be added to your Agenda for the November 11, 2009 board meeting.

We would like to present the Green Acre Estate Homeowners Association which was founded in 2006 by Joel & Michelle VanLith.

We would like to request that Green Acre Estate Homeowners Association be accepted as a separate entity from Hurtz Water Users Group. That the association would be a responsible party for any and all assessments pertaining to the property owners in the Green Acre Estate Homeowners Association to the Farmer's Cooperative Ditch Company.

Thank you,

Joel & Michelle VanLith
18641 Chicken Dinner Rd.
Caldwell, ID 83607
208-454-0388

Scott & Lisa Barrett
535 Shadybrook Dr
Spring Creek, NV 89815
775-738-9418

RINGERT LAW
CHARTERED LAWYERS

Laura E. Burri
Adam S. Christenson
Jeffrey R. Christenson
David P. Claiborne
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger **
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid *
Daniel V. Steenson

September 16, 2009

Robert L. Jackson
Attorney at Law
P.O. Box 912
Parma, Idaho 83660

Re: Payment of Farmers' Co-Operative Ditch Company Assessments by the Hurtz Road Water Users Group

Dear Mr. Jackson:

I am in receipt of your letter regarding the above-referenced matter. Farmers' Co-Operative Ditch Company (Ditch Company) will continue to send the assessment statements to the Hurtz Road Water Users Group, P.O. Box 11, Parma, Idaho 83660. In addition, the Ditch Company will continue to expect that the payment of said assessment be one payment from the Hurtz Water Users Group. As indicated in the letter dated April 28, 2009 from the Ditch Company, the Ditch Company has one account for the Hurtz Road Water Users Group and will not accept partial payments from individual water users. The Hurtz Road Water Users Group will need to take action to collect assessments from the individual water users and to remit one payment for the full amount due to the Ditch Company.

Please contact me should you have any questions.

Yours very truly,

S. Bryce Farris

SBF:kw

cc: Farmers' Co-Operative Ditch Company
The Hurtz Road Water Users Group, P.O. Box 11, Parma, ID 83660

455 South Third Street PO Box 2773 Boise, Idaho 83701 208.342.4591 FAX 208.342.4657
www.ringertlaw.com

* also licensed in OR
** also licensed in CO

ROBERT L. JACKSON
Attorney at Law
P.O. Box 912
Parma, ID 83660
(208) 420-4067 or (208) 608-9649
bjackson3@mindspring.com

Via facsimile 342-4657

RECEIVED
SEP 15 2009
Ringert Law Chartered

S. Bryce Farris
RINGERT LAW, CHTD.
P.O. Box 2773
Boise, ID 83701

Re: Farmers' Co-Operative Ditch Company

Dear Mr. Farris:

I understand you represent Farmers' Co-Operative Ditch Company (FCDA). Please advise immediately if they are no longer your client.

I represent Clay and Tonya Hansen who own a parcel served by the FCDA and have challenged the refusal of FCDA to transfer company shares related to their real property purchased in 2003. The FCDA insisted that a water users' group be formed pursuant to a decision by the Board of Directors in 2003 to preclude ownership of shares if property is "subdivided" into three or more parcels. The Hansens signed an agreement with two other neighboring property owners upon the written condition that they did not waive their right to pursue individual ownership of their shares attached to their real property.

I'm not going to go into the history or legal issues at this time as we have a more pressing issue. Today, my clients received an email (see enclosed copy) from their neighbor with a letter (see enclosed copy) from FCDA attached which was evidently written five months ago to the neighbor's personal post office box but addressed to the water users' group. It was never mentioned to my clients until today.

That letter states that FCDA will no longer accept individual payments from the water users' group although they have accepted payments directly from my clients for the past five years. This has raised a number of issues for the Hansens as there is no structure in place to make a group payment and it is unlikely to be resolved before the fall assessment is due.

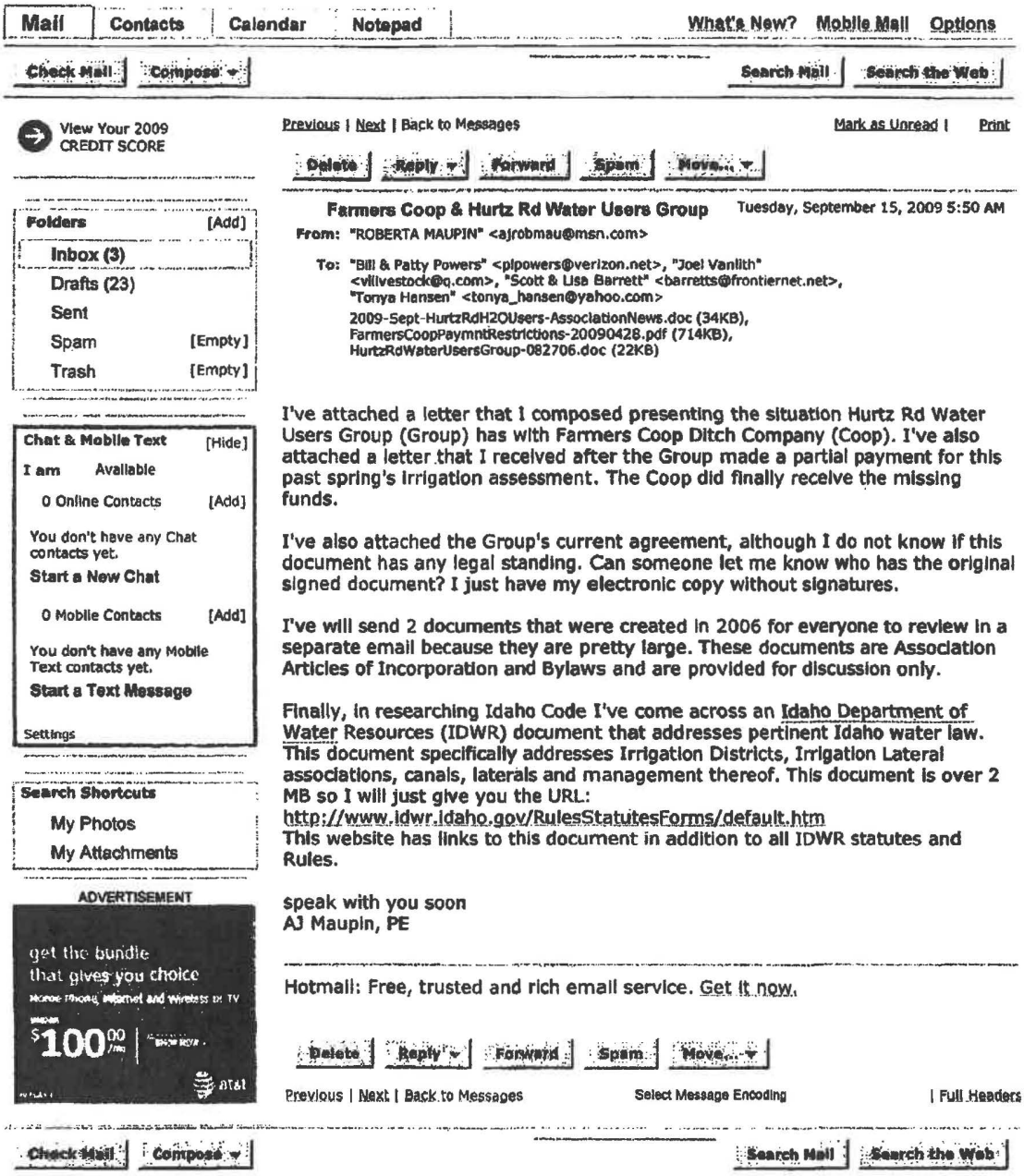
We are asking that FCDA accept the fall payment for the Hansens directly to allow enough time for this issue to be addressed by the members and, if necessary, the Court.

Sincerely,

Robert L. Jackson

/s
Attachment

Cc: FCDA Board of Directors



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Folders [Add]
Inbox (3)
Drafts (23)
Sent
Spam [Empty]
Trash [Empty]

Chat & Mobile Text [Hide]
I am Available
0 Online Contacts [Add]
You don't have any Chat contacts yet.
Start a New Chat
0 Mobile Contacts [Add]
You don't have any Mobile Text contacts yet.
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My Photos
My Attachments

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Farmers Coop & Hurtz Rd Water Users Group Tuesday, September 15, 2009 5:50 AM

From: "ROBERTA MAUPIN" <ajrobmau@msn.com>

To: "Bill & Patty Powers" <plpowers@verizon.net>, "Joel Vanlith" <vlllvestock@q.com>, "Scott & Lisa Barrett" <barretts@frontiernet.net>, "Tonya Hansen" <tonya_hansen@yahoo.com>

2009-Sept-HurtzRdH2OUsers-AssociationNews.doc (34KB), FarmersCoopPaymntRestrictions-20090428.pdf (714KB), HurtzRdWaterUsersGroup-082706.doc (22KB)

I've attached a letter that I composed presenting the situation Hurtz Rd Water Users Group (Group) has with Farmers Coop Ditch Company (Coop). I've also attached a letter that I received after the Group made a partial payment for this past spring's irrigation assessment. The Coop did finally receive the missing funds.

I've also attached the Group's current agreement, although I do not know if this document has any legal standing. Can someone let me know who has the original signed document? I just have my electronic copy without signatures.

I've will send 2 documents that were created in 2006 for everyone to review in a separate email because they are pretty large. These documents are Association Articles of Incorporation and Bylaws and are provided for discussion only.

Finally, in researching Idaho Code I've come across an Idaho Department of Water Resources (IDWR) document that addresses pertinent Idaho water law. This document specifically addresses Irrigation Districts, Irrigation Lateral associations, canals, laterals and management thereof. This document is over 2 MB so I will just give you the URL:
http://www.idwr.idaho.gov/RulesStatutesForms/default.htm
This website has links to this document in addition to all IDWR statutes and Rules.

speak with you soon
AJ Maupin, PE

Hotmail: Free, trusted and rich email service. Get it now.

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Farmers' Co-Operative Ditch Company
P. O. Box 729
Parma, Idaho 83660-0729

April 28, 2009

The Hurtz Water Users Group
P. O. Box 11
Parma, ID 83660

To Whom It May Concern:

Please be advised that this assessment period (Spring 2009) is the last assessment period that Farmers' Co-Operative Ditch Company will accept individual partial payments from your water users group. Any individual payments sent to us in partial payment of The Hurtz Water Users Group assessment ***will be returned to the sender.***

Farmers' Co-Operative Ditch Company has one account for The Hurtz Water Users Group and when we receive several individual partial payments for this account it increases our bookkeeping time, which is unfair to the other water user groups, home owners associations, etc. who are abiding by the rules and regulations of the Company.

This coming fall when you send out your fall 2009 assessment statements to your water users please remind them to remit their payments to The Hurtz Water Users Group, ***not*** to Farmers' Co-Operative Ditch Company.

If you have any questions, please contact us at the above letterhead address.

Thank you for your cooperation in this very serious matter.

Sincerely,

Sheila Seeman

Sheila Seeman
Secretary-Treasurer

RINGERT
CLARK
CHARTERED
LAWYERS

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
S. Bryce Farris
Jon C. Gould
David Hammerquist
Charles L. Honsinger
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson

William F. Ringert, of Counsel
Allyn L. Sweeney of Counsel
Samuel Kaufman (1921-1986)

August 31, 2006

VIA FACSIMILE

T. Guy Hallam
White Peterson
5700 E. Franklin Road, Suite 200
Nampa, ID 83687-7901
Fax # (208) 466-4405

Re: Transfer of Farmers' Co-Operative Ditch Company Shares by Clay and Tonya Hansen.

Dear Guy:

This letter is to follow-up your letter dated July 27, 2006 regarding the above-referenced matter.

The Ditch Company has reviewed and considered the Hansens' formal request to transfer the shares from the Masa Masao Kora Revokable Trust directly to the Hansens, and this letter is to inform you that the Ditch Company will not grant the request. The Ditch Company requires that the Hansens, and the other parties purchasing property previously held by the Trust, Andrew and Roberta Maupin and Joel Van Lith, follow the Company Resolution Regarding Subdivisions dated August of 2003.

Please contact me if you have any questions regarding this matter or if I can provide further explanation.

Yours very truly,

S. Bryce Farris

cc: client

WHITE PETERSON

ATTORNEYS AT LAW

SARAH H. ARNETT
KEVIN E. DINIUS
JULIE KLEIN FISCHER
CHRISTOPHER D. GABBERT
WM. F. GIGRAY, III
T. GUY HALLAM **
JILL R. HOLINKA
JOHN R. KORMANIK *
WILLIAM A. MORROW

WHITE PETERSON, P.A.
CANYON PARK AT THE IDAHO CENTER
5700 E. FRANKLIN RD., SUITE 200
NAMPA, IDAHO 83687-7901
TEL. (208) 466-9272
FAX (208) 466-4405
EMAIL: tgh@whitepeterson.com

WILLIAM F. NICHOLS **
CHRISTOPHER S. NYE
PHILIP A. PETERSON
TODD A. ROSSMAN
JAMES M. VAYREK
TERRENCE R. WHITE ***
DENNIS P. WILKINSON

* Also admitted in CA
** Also admitted in OR
*** Also admitted in WA

July 27, 2006

Via U.S. Mail

Post-it® Fax Note 7671	Date 8/1/06	# of pages ▶ 9
To Bryce Farris	From Sheila	
Co./Dept. Ringert-Clark	Co. Farmers' Co-Op. Ditch	
Phone # 342-4591	Phone # 722-5044	
Fax # 342-4657	Fax # 722-7330	

Board of Directors
Farmer's Cooperative Ditch Co.
P.O. Box 430
Parma, ID 83660

Re: Transferability of shares

Dear Board of Directors:

I apologize for the delay in communicating with you. I had hoped to provide the legal basis for the Hansens' request for completing the transfer of shares from the Masa Masao Trust pursuant to their purchase of Parcel No. R2303900000 from the Trust, prior to your meeting on July 12, 2006.

I reviewed the *Company Resolution Regarding Subdivisions* (see Exhibit A) passed by the Board in August, 2003 which restricts a shareholder's ability to transfer shares if the shareholder subdivides or parcels the land irrigated with water provided by Farmers' into three or more portions. I also reviewed your correspondence of February 15, 2006 (see Exhibit B) which initially denied the Hansens' request for a waiver of the restriction applying to their purchase of property from the Masa Maso Trust in 2003.

Your letter avers the issue is "*not* the splitting of land, but the splitting of *water shares*" and that the main purpose of the Resolution is to "...keep water rights in agricultural production and the stock certificates as whole as possible..." The Resolution itself establishes the relationship between the Resolution and subdividing land, tying the shares to the land expressly in its language in paragraph 2 when it references the designation of a person or entity to "...own and hold all of the shares for the property so divided."

In effect, the Resolution hinders the transfer of shares which relate to water rights, generally considered as part and parcel of real property rights. Hindering conveyance of real property may be a violation of the Idaho State Constitution. Further, the Resolution denies purchasers the ability to own the shares related to their property and effectively blocks a new landowner from voting, holding office or individually participating in Farmers' Cooperative.

The Resolution states this procedure is to be triggered when "any shareholder that shall divide, subdivide or parcel out any portion of their lands into three (3) or more parcels..." That language clearly contemplates the creation of new parcels/lots which presumably would entail a record of survey and redrawing of legal descriptions. Neither of those things occurred in this case. The parcel purchased by the Hansens existed for decades and the subdivision it lies within, the "*Idaho Investment Company's Subdivision*" has existed for more than ninety years (see attached Exhibit C noting it was created on November 30, 1915). The Resolution improperly attempts to retroactively impose restrictions on property already divided as these parcels pre-date it by decades. Further, the Hansen's property consists of four separate lots, which have similarly been platted for nearly one hundred years.

Clearly, the Resolution was intended to apply to the creation of new residential subdivisions which would share water use which is not the case here. The Hansens replaced the existing residence on the property and have continued the property in its agricultural use by putting in an orchard and beginning construction of an 1,600 square foot greenhouse for future agricultural production.

The water delivery system has recently changed, with the Hansens being one of only two users for the headgate (see Exhibit D). *Idaho Code* 42-1301 (see attached Exhibit E) which is referenced in the sample water user association form provided by Farmers,' is for three or more parties taking water at the same point to be conveyed to their respective premises and is clearly inappropriate for a two-user situation. Conversely, the third parcel of the Kora property appears to fit the circumstance contemplated by the Resolution in that it has been divided into four residential lots (see Exhibit F) with multiple potential water users sharing a single headgate.

Timing is also an issue with the enforcement of the Resolution as when the Hansens purchased their property in September, 2003 (closed on November 10, 2003) the Trust's property holdings which receive irrigation water from Farmers' was divided into two, not three parcels, as stated in the Resolution. Thus the Resolution does not apply to the initial split of the Trust property. Given my understanding that the Board gives notice to its shareholders of business transacted only once or twice per year, it is unlikely the original shareholder, or any shareholders for that matter, had any opportunity to have appealed the Resolution at the time of the Hansons' purchase in 2003. Limiting a shareholder's ability to transfer shares has the potential to devalue the property those shares relate to and would be, presumably, an item of business which should be approved and ratified or, at minimum, subject to appeal by the general membership.

As a practical matter, the Hansens have no ability/authority to create the entity as set forth in the Resolution as it is a function of the original shareholder. Similarly, at this point in time, the original shareholder has no authority either, as interest in the shares passed with the deed to the Hansens. I also understand the shares were physically conveyed to Farmers' with the request that they be transferred to the current owners of the real property for which they were originally allocated. That has not yet been done by Farmers'.

Finally, there is a question of some significance regarding the feasibility of one water users association for the three property owners who purchased from the Trust. Each of the three has different goals and plans for their respective properties. To say that the Hansens' goals and ideals are divergent from one of the other owners would be a great understatement. The logistics of the Hansens being in a water users association with the other property owners would be significant and could, in fact, backfire and cause much greater work for the Farmers' Cooperative Board.

Please consider this a formal request to expedite the transfer of the shares from the Kora Trust related to Parcel No. R2303900000 (pursuant to Mr. Kora's request) to the Hansens immediately. Of course, the Hansens would execute a release to Farmers' which includes a confidentiality clause.

Please feel free to contact me if you have questions or wish to discuss any of the issues raised herein.

Regards,

WHITE PETERSON, P.A.
Dictated and sent without
signature to avoid delay
T. Guy Hallam, Jr.

Enc.
Cc: client

Farmers' Co-Operative Ditch Company
P.O. Box 430
Parma, Idaho 83660

COMPANY RESOLUTION REGARDING SUBDIVISIONS

The following is an excerpt from the Resolution adopted by the Board of Directors in August of 2003, regarding the subdividing of lands that are irrigated with water provided by Farmers' Co-Operative Ditch Company.

THEREFORE, BE IT RESOLVED THAT:

1. In addition to the requirements and approval already set forth in the Ditch Company's Articles of Incorporation and By-Laws relating to the division of property and transfer of shares, the Board of Directors requires that any shareholder that shall divide, subdivide or parcel out any portion of their lands into three (3) or more parcels shall be required to establish and/or designate a person or entity that shall be responsible for the ownership of shares for the property so divided and the acceptance and payment of any notices, charges or assessments that may be fixed by the Board of Directors;
2. The original shareholder shall be required to transfer all of the shares for the property so divided to one designated person or entity, and the newly designated person or entity shall then own and hold all of the shares for the property so divided. Said transfer of shares to the designated person or entity shall be effectuated in the Ditch Company's records so that all future notices, assessments and charges for all shares need only be sent to the designated person or entity;
3. The person or entity designated to own and hold the shares shall receive, collect and be responsible and liable for all assessments and charges of the Ditch Company and shall provide the Ditch Company with written notice that such person or entity is responsible for the payment of any charges or assessments fixed by the Board of Directors and shall provide the Ditch Company with a current address and phone number of where such notices, charges and assessments shall be sent;
4. The Ditch Company shall continue to charge and assess the shareholder's shares as it did prior to the division of such property, but rather than separate notices, charges and assessments going to each of the new owners of the so divided property, such notices, charges and assessments shall only go to the designated person or entity that shall own and hold all of the shares for the property so divided and the designated person or entity shall then be responsible for allocating the charges and assesments among the shareholders of the divided parcels; and
5. The written notice submitted to the Ditch Company shall provide that the person or entity designated to own the shares and receive, collect and be responsible for the Ditch Company's notices, charges and assessments and confirm that such person or entity is responsible for the charges and assessments. The written notice shall further confirm that such person or entity is responsible and capable of managing the diversion and distribution system to the property so divided.

EXHIBIT A

Farmers' Co-Operative Ditch Company
P.O. Box 430
Parma, Idaho 83660

February 15, 2006

Tonya Hansen
28818 Hurtz Road
Parma, ID 83660

Dear Ms. Hansen:

We received your letter dated, January 12, 2006, regarding your request for Farmers' Co-Operative Ditch Co. to transfer water shares to your property which you purchased from the Masa Kora Trust.

The Board of Directors understands your position and your wish not to be a part of a homeowners' association or a small water users' organization. However, Mr. Masa Kora, Jr. was aware of the Resolution regarding subdivisions and the splitting of water shares within the boundaries of Farmers' Co-Operative Ditch Company when he began selling the properties belonging to his father's estate. We would like to point to the fact that we have no control over whether or not a seller informs a potential buyer of certain very important issues regarding the property they are selling.

You mention in your letter that the parcels in the Kora Estate pre-existed the Resolution passed by the Board of Directors of this Company in 2003. The Directors would like to point out that the issue is *not* the splitting of *land*, but the splitting of *water shares*. Farmers' Co-Operative Ditch Company cannot prevent someone from subdividing their land. The main purpose of the Resolution is to keep Farmers' Co-Operative Ditch Company water rights in agricultural production and the stock certificates as whole as possible; otherwise, the Company finds itself with a lot of fragmented shares, which cause difficulties in collecting assessments. The Directors feel that the parcel owned by Joel Van Lith, which you indicate is the south parcel, is a part of the homeowners' association or whatever type of entity the owners of the three parcels form, and therefore would not need to form a separate water users' organization.

The Board of Directors of Farmers' Co-Operative Ditch Company does not intend to take any action which would be contrary to the By-Laws of this Company or any Resolutions passed by the Company.

If you have any further questions or concerns regarding this matter, please contact us at the above letterhead address.

Thank you, Ms. Hansen.

Sincerely,

Jerry D. Stone
Secretary

cc: Rod P. Nielsen, President

EXHIBIT B

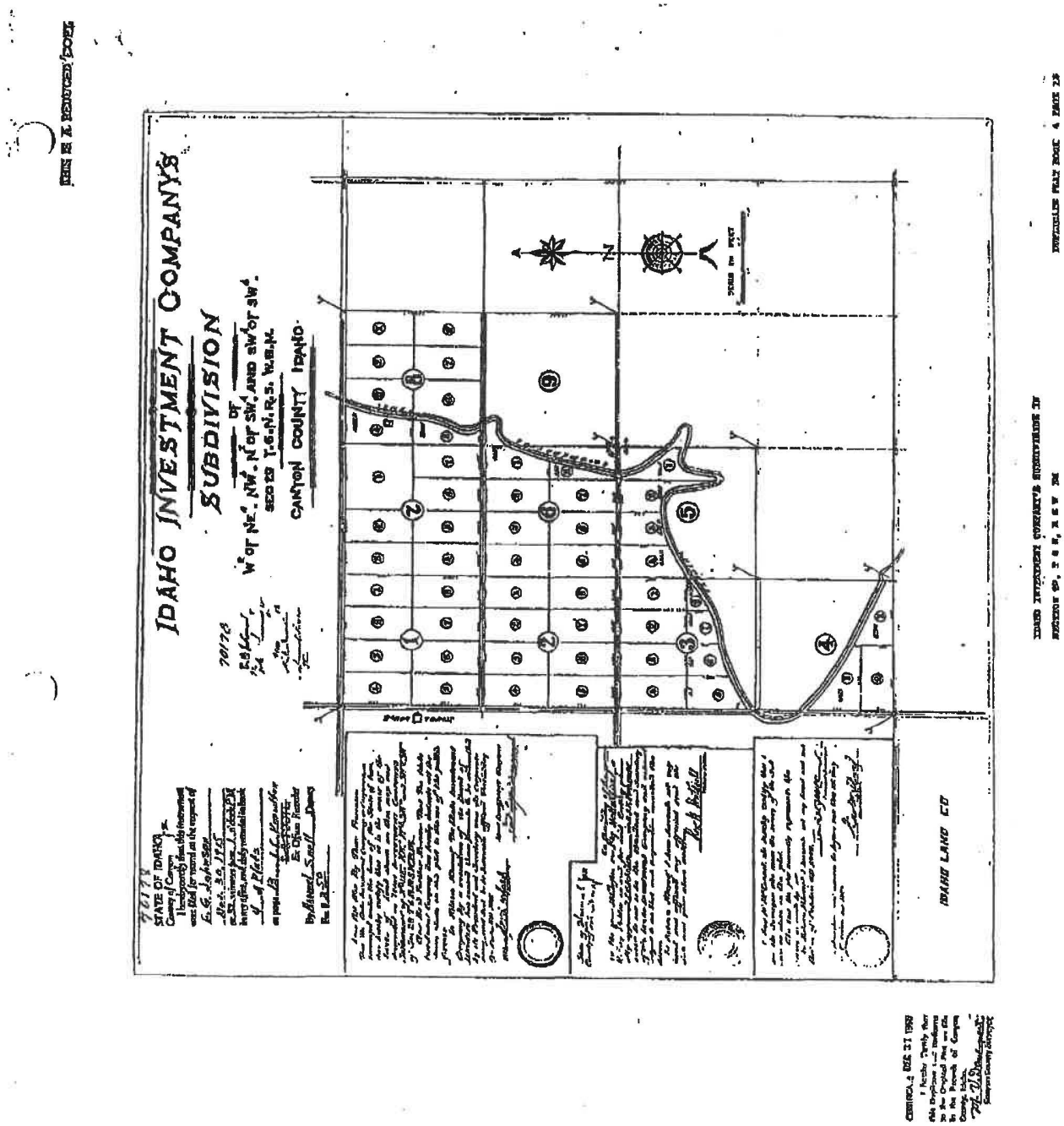
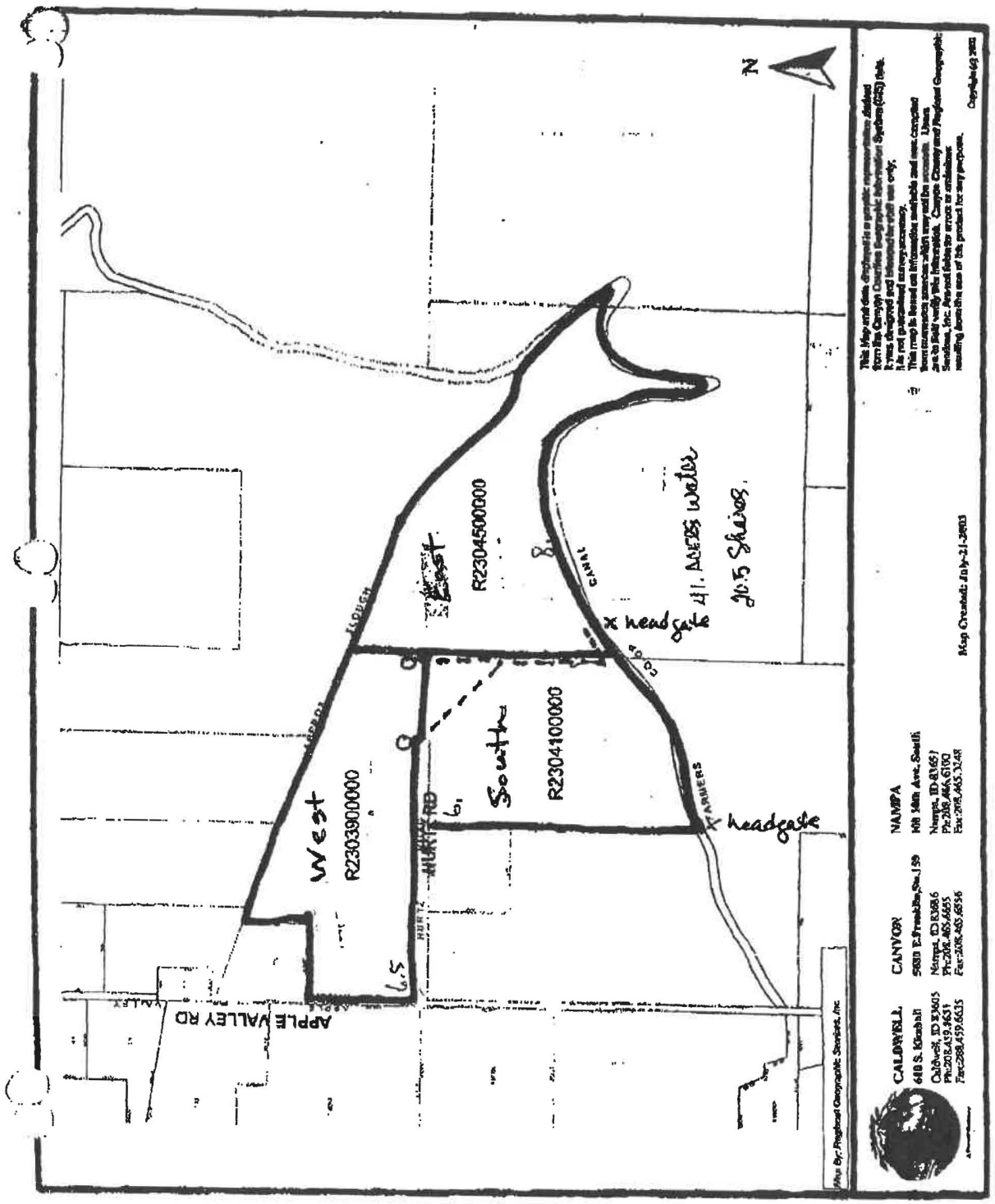

IDAHO INVESTMENT COMPANY'S
SUBDIVISION
CANYON COUNTY IDAHO
IDAHO LAND CO

EXHIBIT C


N
East
R2304500000
CANAL
x headgate
41. Acres water
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LATERAL
South
R2304100000
FARMERS
x headgate
West
R2303900000
LATERAL
HUETTER RD
APPLE VALLEY RD
CALDWELL
648 S. Kimball
Caldwell, ID 83605
Ph:208.459.9631
Fax:208.459.6635
CANYON
5630 E. Franklin Rm. 159
Nampa, ID 83686
Ph:208.465.4655
Fax:208.465.6856
NAMPA
108 14th Ave. South
Nampa, ID 83651
Ph:208.466.6100
Fax:208.465.3248
Map Created: July-21-2003

EXHIBIT D

estate cut off side ditch.
for part of his water supp
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of proof in proceeding to
or cutting off ditch was on
at new ditch would convey
ater as conveyed by old
ding the flow in the main
Moon, 72 Idaho 39, 237

ion of side ditch required
water by users of main
ubstantial impediment in
ison v. Moon, 72 Idaho 39,

of the Jamerson pipeline
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er v. Jamerson, 78 Idaho
1957).
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. Aguirre v. Hamlin, 80
349 (1958).
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appellant's property.
Idaho 176, 327 P.2d 349

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uld be less offensive to
e, if the requirements of
Abbott v. Nampa Sch.

Dist. No. 131, 119 Idaho 544, 808 P.2d 1289 (1991).

Proof of Causation.

Whether liability for diminished water flow was predicated upon negligence, or upon violation of this section, the plaintiff landowners were required to show that relocation of the ditch actually caused a diminished flow of water to their properties since proof of causation is essential to invoke the statute. Allen v. Burggraf Constr. Co., 106 Idaho 451, 680 P.2d 873 (Ct. App. 1984).

Scope.

This section is broadly worded and does not specify that it is only the amount of water to which downstream users are entitled under the water laws of this state which may not be impeded. Savage Lateral Ditch Water Users Ass'n v. Pulley, 125 Idaho 237, 869 P.2d 564 (1994).

Collateral References. Prescriptive right of riparian owners to continuance of artificial channel or ditch. 88 A.L.R. 134.

Right of owner to alter his easement in such a way as to deprive servient estate of incidental benefits. 172 A.L.R. 193.

42-1208. Rights-of-way not subject to adverse possession. — Rights-of-way of irrigation districts, Carey act operating companies, nonprofit irrigation entities, and lateral ditch associations, are not subject to adverse possession, and no person shall prevent free access of authorized personnel on rights-of-way or construct any obstruction on rights-of-way in an effort to adversely possess said right-of-way. [I.C., § 42-1208, as added by 1981, ch. 344, § 1, p. 713.]

CHAPTER 13

LATERAL DITCH WATER USERS' ASSOCIATIONS

SECTION.
42-1301. Organization — Officers — Rules.
42-1302. Lateral manager — Election — Duties.
42-1303. Lateral ditches — Repairs, improvements, and maintenance — Assessment of costs.
42-1304. Assessments — Notice — Penalties for delinquency.
42-1305. Delinquent users not entitled to water.
42-1306. Collection and disbursement of funds.
42-1307. Action for assessment — Attorneys' fees.
42-1308. Appointment of lateral manager by director of department of water resources.
42-1309. Association authorized to borrow money, mortgage or pledge assets.

42-1301. Organization — Officers — Rules. — Where three (3) or more parties take water from same canal or reservoir at the same point to be conveyed to their respective premises for any distance through a lateral or distributing ditch or laterals or distributing ditches such parties shall constitute a water users' association known as "Water Users' Association of Lateral or Laterals." Such water users' association may meet and organize at any time after thirty (30) days after this chapter shall take effect, and shall meet annually thereafter between January first and the last Monday in March of each year, at the call of the secretary of such association, said secretary to give ten (10) days' notice by mail of such annual meeting; provided that if for any reason the secretary should fail to call a meeting, then the annual meeting of such association shall be held on the last Monday in March of each year. At such annual meetings each water user shall be entitled to one (1) vote in person, for each inch and a fractional vote

EXHIBIT E

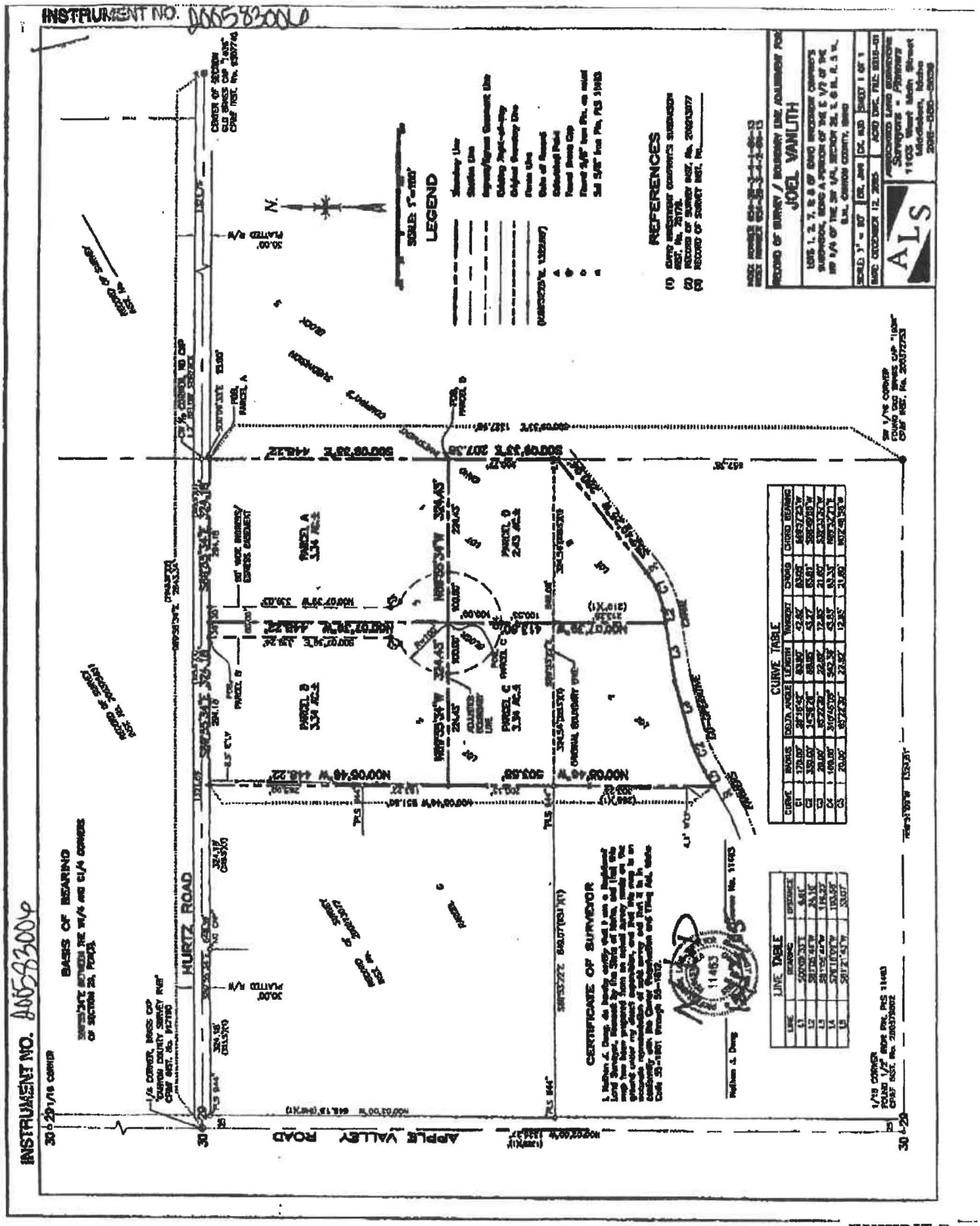
INSTRUMENT NO. A00583006
BASIS OF BEARING
HURTZ ROAD
APPLE VALLEY ROAD
LEGEND
REFERENCES
CERTIFICATE OF SURVEYOR
CURVE TABLE
LINE TABLE
JOEL VANLITH
ALS

EXHIBIT F

Farmers' Co-Operative Ditch Company
P.O. Box 430
Parma, Idaho 83660

COPY

June 11, 2003

Dale L. Brock & Linda R. Brock
3206 Regent Pl.
Caldwell, ID 83605

Dear Mr. & Mrs. Brock:

The Stock Transfer Requests that have been made on your behalf by Pioneer Title Co. of Canyon County have been put on hold until such time as you provide Farmers' Co-Operative Ditch Company with an Irrigation Plan. If the irrigation plan meets with the approval of the Board of Directors, they will approve the transfers of stock to the individual buyers at their next scheduled board meeting.

If you have any questions regarding this matter, or if you need clarification, please contact Hubert Iverson at (208) 459-3940.

Thank you, Mr. & Mrs. Brock, for your immediate attention to this matter.

Sincerely,

Jerry D. Stone
Secretary

cc: Hubert Iverson, President

Minutes of the Regular Meeting of the Board of Directors
Of
Farmers' Co-Operative Ditch Company

Our office, Parma — Wednesday, June 11, 2003

Hubert Iverson, President, called the meeting to order at 10:00 a.m.

Directors present were Hubert Iverson, Ken Nelson, Rod Nielsen, Bill Hartman, Hans Gotsch, and Bob Stephens. Also present were Bernard Weygint, Watermaster, and Jerry Stone, Secretary.

The minutes of the May 14, 2003, board meeting were read by the secretary and were approved as read.

The May financial statement was presented by the secretary and was approved as presented.

The President and directors reviewed the May accounts payable schedule. After the review, Hans Gotsch moved, with the motion seconded by Rod Nielsen, to approve the May accounts payable in the total amount of $11,562.14. Motion carried.

Hubert Iverson reported that our attorney, Dan Steenson, has stated that there are developments happening regarding the Nez Perce Indian Tribe claims matter. He may want to have a special meeting to discuss these developments with the board in the very near future.

After discussion, Rod Nielsen moved, with the motion seconded by Ken Nelson, that we send a letter to Dale and Linda Brock explaining that we need an irrigation plan submitted to the board for approval, and after the approval of an irrigation plan the stock transfers will be approved for transfer to the individual owners. Motion carried.

After further discussion, Rod Nielsen moved, with the motion seconded by Bill Hartman, to approve the following stock transfers:

Nelson Farms/Kenneth & Norma Nelson to Reynolds	2 shares
Foy W. Brown to Georgia & Dowie Proctor, Sr.	2.5 shares

Motion carried.

The secretary reported that he had contacted Frontier Telephone Company regarding the placement of our Caldwell telephone number (208-459-9102) in the Parma section of the 2003-2004 Homedale Directory. Frontier responded that we could place the listing for $1.50 per month, with a one-time setup fee of $11.00. The secretary was directed to place the order for the listing in the 2003-2004 Homedale Directory.

The next board meeting was set for Wednesday, July 16, 2003 at 10:00 a.m.

With no further business appearing, the meeting adjourned at 11:35 a.m.

Dated this 16th day of July, 2003.

P. Hubert Iverson
President

Jerry Stone
Secretary

EXHIBIT 5

FARMERS' CO-OPERATIVE DITCH COMPANY
NOTES
TELEPHONE POLL OF BOARD OF DIRECTORS
8/13 & 14/03
re: BROCK SUBDIVISION

TWO CHOICES:

1) TELL DALE AND LINDA BROCK THAT WE EXPECT THEM TO ABIDE BY THE RESOLUTION AS ADOPTED. (POLICY IN PLACE LONG BEFORE FORMAL ADOPTION.)
2) MAKE A ONE-TIME EXCEPTION TO THE POLICY REGARDING SUBDIVISIONS AND TRANSFER THE SHARES TO THE INDIVIDUAL LANDOWNERS IN THIS SUBDIVISION.

8/13/03 HUBERT IVERSON – IF IT WERE NOT FOR THE PERSON INVOLVED, HE WOULD CHOOSE CHOICE NO. 1 TO AVOID A LAWSUIT. BUT HE WILL GO ALONG WITH WHATEVER THE REST OF THE BOARD DECIDES TO DO.

8/13/03 HANS GOTSCH: GRANT AN EXCEPTION TO THE RESOLUTION/POLICY REGARDING THE TRANSFER OF SHARES WHEN DIVIDED THREE OR MORE TIMES, DUE TO THE LETTER SENT TO THE BROCKS IN JUNE AND DUE TO ALL OF THE CONFUSION SURROUNDING THIS PARTICULAR SITUATION. ALSO SEND A LETTER TO ALL THOSE INVOLVED IN THIS PARTICULAR SUBDIVISION STATING THAT WE ARE GRANTING THEM AN EXCEPTION TO THE POLICY AND THAT THIS IS THE ONLY EXCEPTION THAT WILL BE MADE. THE BOARD WILL AUTHORIZE THE TRANSFER OF THE SHARES TO THE INDIVIDUAL OWNERS. HOWEVER, THEY MUST APPOINT ONE PERSON TO BE RESPONSIBLE FOR THE DELIVERY OF THE IRRIGATION WATER. THIS PERSON MUST OVERSEE THE DELIVERY TO MAKE SURE THAT EVERYONE RECEIVES HIS/HER PRORATA SHARE OF WATER. ANY DISPUTES THAT ARISE OVER THE DELIVERY OF WATER OR THE MAINTENANCE OF THE IRRIGATION SYSTEM WILL BE THE RESPONSIBILITY OF THE OVERSEER. ANYONE WHO DEFAULTS ON THEIR ASSESSMENTS WILL SUBJECT THEIR WATER STOCK TO POSSIBLE SALE FOR NONPAYMENT OF THE ASSESSMENTS. FARMERS' CO-OPERATIVE DITCH COMPANY WILL NOT ACCEPT ANY RESPONSIBILITY FOR ANY PROBLEMS ARISING WITHIN THIS SUBDIVISION.

8/14/03 ROBERT STEPHENS: GRANT EXCEPTION AND SEND A LETTER TO EVERYONE INVOLVED IN THIS PARTICULAR SUBDIVISION. SAME SENTIMENTS AS HANS GOTSCH AND HUBERT IVERSON.

8/14/03 REX NICHOLS: SAME AS ABOVE.

8/14/03 KEN NELSON: SAME AS ABOVE.

8/14/03 ROD NIESEN: SAME AS ABOVE.

8/14/03 BILL HARTMAN: THE BROCK'S SALES WERE IN PROGRESS BEFORE THE RESOLUTION WAS FORMALLY ADOPTED. SEND THE LETTER.

RINGERT
CLARK
CHARTERED
LAWYERS

Laura E. Burri
Jeffrey R. Christenson
David P. Claiborne
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
Daniel V. Steenson
Allyn L. Sweeney

William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

August 15, 2003

Linda R. Brock
3206 Regent Pl.
Caldwell, ID 83605

Re: Transfer of Shares of Farmers' Co-Operative Ditch Company

Dear Linda:

As we discussed yesterday afternoon, Farmers' Co-Operative Ditch Company is going to, as a one time exception, allow you to transfer the shares of Farmers' Co-Operative Ditch Company to the new owners of parcels which you subdivided due to the confusion regarding the policy in this particular situation.

Please be advised that this is a one time exception to the Ditch Company's policy regarding the subdivision of property into three or more parcels, and it shall not be used to support a claim of estoppel or waiver by any other person or third party. The Ditch Company fully intends to follow its policy as written in all other instances where there has been a division of property into three or more parcels and require that the all of the shares be held by one person or entity.

Please also be advised that while the Ditch Company is allowing you an exception to the policy regarding the transfer of shares, the Ditch Company is still requiring that you abide by all other Ditch Company rules regarding the division of property. Thus, you are still required to submit an Irrigation Plan that meets with the approval of the Board of Directors and which provides a sufficient distribution system for the subdivided property. Further, you are still required to designate a person or entity that shall be capable and responsible for operating, managing and maintaining the distribution system so that each of the subdivided parcel owners receive their pro-rata share. The Ditch Company will not be responsible for disputes between the subdivided parcels relating to the maintenance of the distribution system or delivery of water to the subdivided parcels. I believe during our conversation you mentioned that you already had someone in mind.

Thus, you will need to provide the Ditch Company with a sufficient Irrigation Plan and the name and address of the person that will operate and maintain the distribution system. Once you have provided these items, then the Ditch Company will transfer the shares of stock to the subdivided parcel owners. You will need to contact the Ditch Company to confirm the names of the new owners so that the transfer can be effectuated on the Ditch Company's books.

Lastly, I am providing a copy of this letter to the Ditch Company and requesting that the Ditch Company provide a copy of this letter to the new owners of the subdivided property. Hopefully, this will ensure that all of the property owners are clear as to what needs to happen in order to effectuate the transfer of shares and ensure the continued distribution of water to all of the parcels.

Please contact me if you have any questions regarding this matter.

Yours very truly,

S. Bryce Farris

cc: Farmers' Co-Operative Ditch Company

PioneerTitleCo.
GOING BEYOND
610 S. Kimball Avenue
Caldwell, ID 83605

February 20, 2019

One More Mile, LLC
3255 Kesler Ln
Nyssa, OR 97913-5054

File No. 667571
Property Address: Vacant Land Apple Valley Road, Parma, ID 83660

Owners Policy

Sincerely,

Stephanie McCracken, Title Officer
Ph: (208) 455-7320
Email: smccracken@pioneertitleco.com

EXHIBIT
tabbies
107

OMM 000034

OWNER'S POLICY OF TITLE INSURANCE

Policy Number OX-11661489

Issued by Old Republic National Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Minnesota corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from:
   (a) A defect in the Title caused by
      (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
      (ii) failure of any person or Entity to have authorized a transfer or conveyance;
      (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
      (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
      (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
      (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
      (vii) a defective judicial or administrative proceeding.
   (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
   (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to-
   (a) the occupancy, use, or enjoyment of the Land;
   (b) the character, dimensions, or location of any improvement erected on the Land;
   (c) the subdivision of land; or
   (d) environmental protection

   if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

Issued By:

Pioneer Title Company of Canyon County
610 S. Kimball Avenue
Caldwell, ID 83605

An authorized Agent of:
Old Republic National Title Insurance Company

Authorized Signatory

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(512) 371-1111

By _____ President

Attest _____ Secretary

ORT Form 4309
ALTA Owners Policy of Title Insurance 6-17-2006

OMM 000035

COVERED RISKS Continued

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective

   (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or

   (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
   (i) to be timely, or
   (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (i) the occupancy, use, or enjoyment of the Land;
   (ii) the character, dimensions, or location of any improvement erected on the Land;
   (iii) the subdivision of land; or
   (iv) environmental protection;
   or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
   (a) created, suffered, assumed, or agreed to by the Insured Claimant;
   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
   (c) resulting in no loss or damage to the Insured Claimant;
   (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
   (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
   (a) a fraudulent conveyance or fraudulent transfer; or
   (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

CONDITIONS AND STIPULATIONS

1. **DEFINITION OF TERMS**

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. **CONTINUATION OF INSURANCE**

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. **NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT**

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. **RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. **ARBITRATION**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of $2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. **LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. **SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. **CHOICE OF LAW; FORUM**

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefore in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. **NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 400 Second Avenue South, Minneapolis, Minnesota 55401-2499.

PioneerTitleCo.
GOING BEYOND

Owner's Policy

Policy Issuing Agent For:
Old Republic National Title Insurance Company
400 Second Avenue South
Minneapolis, MN 55401

File No.: 667571

Policy No.: OX-11661489

Address Reference: Vacant Land Apple Valley Road, Parma, ID 83660

Date of Policy: January 31, 2019 at 4:25PM
Amount of Insurance: $950,000.00
Premium: $2,926.00

Endorsement Premium: $0.00

Schedule A

1. Name of Insured:

   One More Mile, LLC an Idaho Limited Liability Company

2. The estate or interest in the Land that is insured by this policy is:

   FEE SIMPLE

3. Title is vested in:

   One More Mile, LLC an Idaho Limited Liability Company

4. The land referred to in the Policy is described as follows:

   See Exhibit A attached hereto and made a part hereof.

Schedule B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Rights or claims of parties on possession not shown by the public records.

2. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey or inspection of the premises including, but not limited to, insufficient or impaired access or matter contradictory to any survey plat shown by the public records.

3. Easements, or claims of easements, not shown by the public records.

4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims to title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

6. Taxes or special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices to such proceedings, whether or not shown by the records of such agency or by the public records.

Special Exceptions:

1. General taxes for the year 2019, which are liens and are not yet due and payable.
   Parcel No.: 25091010 0; 25091010O0; 25091010A0; 25091010B0; 25091010C0; 25091010D0; 25091010Q0; 25091010F); 25091010P0; 25091010G0; 25091010H0; 25091010I0; 25091010J0; 25091010K0; 25091010L0; 25091010N0; 25091010M0

2. Levies and assessments of the following district and the rights, powers and easements thereof as provided by law.
   District: Farmers Co-Operative Ditch Co.
   Paid current.

3. Liens, dues and/or assessments owing the association herein named which may have heretofore attached pursuant to the terms and provisions of covenants, conditions and restrictions imposed upon said premises.
   Association: Apple Valley Homeowners Association, Inc.
   Paid current.

4. Rights and claims in and to those portions of said premises lying within the right of ways of ditches, canals, laterals, and roads, including but not limited to Apple Valley road and Snake River.

5. Covenants, conditions, restrictions and easements as set forth on the plat.
   Name of Plat: Orchard Tract of the OregonIdaho Orchard Company
   Book/Page: 3/59

6. Any adverse claim based upon the assertion that some portion of said land lies below the ordinary high water mark of Snake River.

7. Right, Title or Interest or claims thereof to any portion of the land described in Schedule A claimed or asserted by the State of Idaho or by adjacent or adjoining property owners including owners of property located on the opposite side of the Snake River based on changes in the course location meander lines or high water lines of said river.

8. An easement containing certain terms, conditions and provisions affecting a portion of said premises and for the purposes stated herein
   For: To construct, maintain and repair power lines over, through, under and across said lands, together with the right, at the sole expense of Grantee, to excavate and refill ditches and trenches for the location of said power lines, and the further right to remove trees, bushes, sod, flowers and shrubbery and other obstructions and improvements, interfering with the location, construction and maintenance of said power lines.
   In Favor of: Idaho Power Company, an Idaho corporation
   Recorded: June 27, 1939
   Instrument No.: 243286
   Affects: Lots 1, 2 and 3 Block 4 (Portion of our Parcel 1)

9. Matters disclosed by Record of Survey
   Recorded: February 3, 2006
   Instrument No.: 200608042

10. An easement containing certain terms, conditions and provisions affecting a portion of said premises and for the purposes stated therein
    In Favor of: Myron Grant Peterson and Clara Peterson, husband and wife
    Recorded: April 11, 2006
    Instrument No.: 200626315
    Affects: Parcels 16 and 17

11. Covenants, Conditions, Restrictions, Reservations, and Easements
    Recorded: December 24, 2007
    Instrument No.: 2007082405
    Deleting or omitting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

    Amendment to said covenants
    Recorded: April 15, 2010
    Instrument No.: 2010017207

12. Matters disclosed by Record of Survey
    Recorded: April 9, 2008
    Instrument No.: 2008019137

13. Unrecorded Leaseholds, if any, rights of parties in possession other than the vestees herein, rights of secured parties under financing statements as to personal property located on the premises herein and the rights of tenants to remove trade fixtures.

END OF EXCEPTIONS

EXHIBIT A

Parcel 1:

The following describes a parcel of real property lying within Block 2 and Block 3 and a portion of Block 4, Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Canyon County records, and also located in the Northeast Quarter (NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the North boundary line of said NE ¼, South 89°59'00" West, 25.00 feet to the POINT OF BEGINNING;

Thence, continuing along said North boundary line, South 89°59'00" West, 2075.97 feet, to the right bank of the Snake River;

Thence, continuing along said right bank the following courses and distances:
South 22°16'45" West, 295.38 feet;
South 20°34'18" West, 259.68 feet;
South 18°15'34" West, 246.44 feet;
South 01°48'20" West, 433.14 feet;
South 19°22'42" West, 413.94 feet;
South 52°24'29" West, 125.26 feet, to the West boundary line of said NE ¼;
Thence, departing said right bank, and along said West boundary line, South 00°13'44" East, 1030.98 feet, to the Southwest corner of said NE ¼;
Thence, along the South boundary line of said NE ¼, North 89°20'27" East, 1319.51 feet, to the Southeast corner of said Block 2;
Thence, departing said South boundary line, and along the East boundary line of said Block, North 00°15'40" West, 1334.91 feet, to the Northeast corner of said Block 2;
Thence, along the South boundary line of said Block 4, North 89°44'20" East, 971.40 feet, to the Southeast corner of Lot 7 of Block 4;
Thence, along the East boundary line of said Lot 7, North 00°15'40" West, 647.93 feet to the Northeast corner of said Lot 7;
Thence, along the North boundary line of Lot 8 of said Block 4, North 89°44'20" East, 323.88 feet to the West right of way line of Apple Valley Road;
Thence, along said right of way and the East boundary line of said Block 4, North 00°15'40" West, 678.00 feet to the POINT OF BEGINNING.

Parcel 2:

The following describes a parcel of real property lying within a portion of Block 1 of Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Instrument Number 33653, Canyon County records and also located in the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the East boundary line of said SE ¼ NE ¼, South 00°15'40" East, 1325.84 feet; thence, South 89°44'20" West, 25.00 feet to the West right of way line of Apple Valley Road; thence, along said right of way line, South 0°15'40" East, 307.26 feet; thence, departing said right of way line, South 89°44'20" West, 15.00 feet; thence, South 0°15'40" East, 67.00 feet to the POINT OF BEGINNING;

Thence, South 00°15'40" East, 52.95 feet;
Thence, South 89°44'20" West, 253.82 feet;
Thence, 59.82 feet along a curve to the left, said curve having a radius of 85.00 feet, having a delta angle of 40°19'12", a long chord which bears, South 69°34'43" West, 58.59 feet;
Thence, North 00°15'40" West, 73.14 feet;
Thence, North 89°44'20" East, 308.82 feet to the POINT OF BEGINNING.

Parcel 3:

The following describes a parcel of real property lying within a portion of Block 1 of Orchard Tract of the Oregon-Idaho Orchard Company, Book 3, Page 59, Instrument Number 33653, Canyon County records and also located in the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, being more particularly described as follows:

Commencing at the Northeast corner of said Section 18; thence, along the East boundary line of said SE ¼ NE ¼, South 00°15'40" East, 1325.84 feet; thence, South 89°44'20" West, 25.00 feet to the West right of way line of Apple Valley Road; thence, along said right of way line, South 0°15'40" East, 487.21 feet to the POINT OF BEGINNING;

Thence, continuing along said right of way line, South 00°15'40" East, 52.85 feet;
Thence, departing said right of way, South 89°47'00" West, 289.00 feet;
Thence, South 00°15'40" East, 108.60 feet;
Thence, South 89°38'04" West, 4.82 feet;
Thence, North 00°15'40" West, 136.23 feet;
Thence, 39.27 feet along a curve to the right, said curve having a radius of 25.00 feet, a delta angle of 90°00'00", a long chord which bears, North 44°44'20" East, 35.39 feet;
Thence, North 89°44'20" East, 268.82 feet to the POINT OF BEGINNING.

PARCEL 4:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 2 from which the Southwest corner thereof bears South 00°15'40" East 15.00 feet; thence along said West line
North 00°15'40" West 285.87 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 2; thence along said East line

South 00°15'40" East a distance of 97.70 feet to a ½ inch iron rod and a point of cusp; thence leaving said East line and
Along the are of a 85.00 foot radius curve to the left 73.70 feet through a central angle of 49°40'47" and whose long chord bears South 24°34'44" West 71.41 feet to a point of tangency; thence
South 00°15'40" East 101.38 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.38 feet through a central angle of 89°53'45" and whose long chord bears South 44°41'12" West 28.26 feet to a point of tangency; thence along a line 15.00 feet distant and to the North of the South line of said Lot 2, when measured perpendicular thereto
South 89°38'05" West 273.86 feet to the POINT OF BEGINNING.

PARCEL 5:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 2, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 2, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 2; thence along the North line of said Lot 2
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 2; thence leaving said North line and along the East line of said Lot 2
South 00°15'40" East 349.70 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West a distance of 323.82 feet to a ½ inch iron rod on the West line of said Lot 2; thence along said West line
North 00°15'40" West 348.22 feet to the POINT OF BEGINNING.

PARCEL 6:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 3 from which the Southeast corner of said Lot 3 bears South 00°15'40" Fast 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 3 when measured perpendicular thereto
South 89°38'04" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 3; thence along said West line
North 00°15'40" West 270.10 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 3; thence along said East line
South 00°15'40" East 268.037 feet to the POINT OF BEGINNING.

PARCEL 7:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 3, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 3, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 3; thence along the North line of said Lot 3
North 89°44'20" East 323.82 feet to a ½ inch iron rod at the Northeast corner of said Lot 3; thence leaving said North line and along the East line of said Lot 3
South 00°15'40" East 366.05 feet to a ½ inch iron rod; thence
North 90°00'00" West 323.82 feet to a ½ inch iron rod; thence
North 00°15'40" West 364.58 feet to POINT OF BEGINNING.

PARCEL 8:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 4 from which the Southeast corner of said Lot 4 bears South 00°15'40" East 15.00 feet; thence along a line 15.00 feet distant and to the North of the South line of said Lot 4 when measured perpendicular thereto
South 89°38'04" West 323.81 to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 272.17 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 4; thence
South 00°15'40" East a distance of 270.10 feet to the POINT OF BEGINNING.

PARCEL 9:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 4, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 4, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Northwest corner of said Lot 4; thence along the North line of said Lot 4

North 89°44'20" East 323.81 feet to a ½ inch iron rod at the Northeast corner of said Lot 4; thence leaving said North line and along the East line of said Lot 4
South 00°15'40" East 364.58 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 4; thence along said West line
North 00°15'40" West 363.10 feet to the POINT OF BEGINNING.

PARCEL 10:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 5, BLOCK 1, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 5 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 5 when measured perpendicular thereto
North 89°38'04" East 323.81 feet to a ½ inch iron rod on the East line of said Lot 5; thence along said East line
South 00°15'40" East 270.11 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.81 feet to a ½ inch iron rod on the West line of said Lot 5; thence along said West line
North 00°15'40" West 268.04 feet to the POINT OF BEGINNING.

PARCEL 11:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 5, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 5, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 5 from which an aluminum cap monument marking the Southeast corner of said Southeast Quarter bears North 89°31'47" East 1320.27 feet; thence along the West line of said Lot 5
North 00°15'40" West 367.22 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.81 feet to a ½ inch iron rod to the East line of said Lot 5; thence along said East line
South 00°15'40" East a distance of 364.57 feet to a ½ inch iron rod on the South line of said Lot 5; thence along said South line
South 89°31'49" West 323.81 feet to the POINT OF BEGINNING.

PARCEL 12:

LEGAL DESCRIPTION OF PARCEL A OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 6 from which the Northwest corner thereof bears North 01°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 6 when measured perpendicular thereto
North 89°38' 04" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East 272.18 feet to a ½ inch iron rod; thence leaving said East line
North 90°00'00" West 323.82 feet to a ½ inch iron rod on the West line of said Lot 6; thence along said West line
North 00°15'40" West a distance of 270.11 feet to the POINT OF BEGINNING.

PARCEL 13:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 6, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 6, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod marking the Southwest corner of said Lot 6 from which an aluminum cap monument marking the Southeast corner of the aforementioned Southeast Quarter bears North 89°31'47" East 996.46 feet; thence along the West line of said Lot 6
North 00°15'40" West 364.57 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 323.82 feet to a ½ inch iron rod on the East line of said Lot 6; thence along said East line
South 00°15'40" East a distance of 361.91 feet to a ½ inch iron rod on the South line of said Lot 6; thence along said South line
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 14:

LEGAL DESCRIPTION OF: PARCEL A OF LOT 7, BLOCK 1, ORCHARD TRACTS OF THE ORECON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the West line of said Lot 7 from which the Northwest corner thereof bears North 00°15'40" West 15.00 feet; thence along a line 15.00 feet distant and to the South of the North line of said Lot 7 when measured perpendicular thereto
North 89°38'04" East 273.84 feet to a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 31.45 feet through a central angle of 269°53'27" and having a long chord of 28.31 feet bearing South 45°18'39" East to a point of tangency; thence
South 00°15'22" East 277.74 feet to a ½ inch iron rod; thence
North 90°00'00" West 293.79 feet to a ½ inch iron rod on said West line of Lot 7; thence along said West line
North 00°15'40" West 295.90 feet to the POINT OF BEGINNING.

PARCEL 15:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 7, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED
A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 7, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southwest corner of said Lot 7 from which an aluminum cap monument marking the Southeast corner of said Southeast bears North 89°31'47" East 672.64 feet; thence along the West line of said Lot 7
North 00°15'40" West 338.18 feet to a ½ inch iron rod; thence leaving said West line
North 90°00'00" East 293.79 feet to a ½ inch iron rod; thence
South 00°15'22" East a distance of 13.79 feet to a ½ inch iron rod and a point of curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.45 feet through a central angle of 315°45'13" and whose long chord bears South 21°52'03" West 15.06 feet to a point of reverse curvature; thence
Along the arc of a 50.00 foot radius curve to the left 117.36 feet through a central angle of 225°31'04" and whose long chord bears South 23°00'54" East 92.21 feet to a ½ inch iron rod on the East line of said Lot 7; thence along said East line
South 00°15'40" East 222.88 feet to a ½ inch iron rod at the Southeast corner of said Lot 7; thence along the South line of said Lot 7
South 89°31'49" West 323.82 feet to the POINT OF BEGINNING.

PARCEL 16:

LEGAL DESCRIPTION OF PARCEL A OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod on the East line of said Lot 8 from which the Northeast corner of said Lot 8 bears North 00°15'40" West 102.15 feet; thence along said East line
South 00°15'40" East 269.68 feet to a ½ inch iron rod; thence leaving said East line
South 89°31'49" West 273.97 feet to a point of cusp; thence

Along the arc of a 50.00 foot radius curve to the left 35.37 feet through a central angle of 40°32'03" whose long chord bears North 24°24'16" West 34.64 feet to a point of reverse curvature; thence
Along the arc of a 20.00 foot radius curve to the right 15.50 feet through a central angle of 44°24'55" whose long chord bears North 22°27'50" West 15.11 feet to a point of tangency; thence
North 00°15'22" West 326.69 feet to a ½ inch iron rod; thence
North 89°38'04" East 4.82 feet to a ½ inch iron rod; thence
South 00°15'40" East 101.40 feet to a ½ inch iron rod; thence
North 89°47'00" East a distance of 289.00 feet to the POINT OF BEGINNING.

PARCEL 17:

LEGAL DESCRIPTION OF: PARCEL B OF LOT 8, ORCHARD TRACTS OF THE OREGON IDAHO ORCHARD COMPANY AS RECORDED

A parcel of land situate in a portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho and being a part of Lot 8, Block 1, Orchard Tract of the Oregon Idaho Orchard Company as recorded in Book 3 at Page 59 of Plats, Canyon County, Idaho and more particularly described as follows:

BEGINNING at a ½ inch iron rod at the Southeast corner of said Lot 8 from which an aluminum cap monument marking the Southeast corner of the Southeast Quarter bears North 89°31'47" East 25.00 feet; thence along the South line of said Lot 8
South 89°31'49" West 323.82 feet to a ½ inch iron rod at the Southwest corner of said Lot 8; thence leaving said South line and along the West line of said Lot 8
North 00°15'40" West 222.88 feet to a point of cusp; thence leaving said West line
Along the arc of a 50.00 foot radius curve to the left 81.93 feet through an angle of 93°52'52" and whose long chord bears North 42°46'53" East 73.039 feet to a point of intersection with a non-tangential line; thence
North 89°31'49" East 273.97 feet to a ½ inch iron rod on the East line of said Lot 8; thence along said East line
South 00°15'40" East a distance of 276.08 feet to the POINT OF BEGINNING.

INSTRUMENT NO. 2007082405

Declaration of Protective Covenants and Restrictions
Apple Valley Acres

This DECLARATION is made on the date hereinafter set forth by Apple Valley Development Company, LLC, an Idaho Corporation, hereinafter referred to as "Declarant."

This Declaration of Protective Covenants and Restrictions for Apple Valley Acres pertains to that certain real property in Canyon County, State of Idaho, hereinafter referred to as "the Properties," more particularly described as follows:

See **EXHIBIT A**

WHEREAS, Declarant desires to subject the above described Properties to certain protective covenants, conditions restrictions, reservations, easements, liens, and charges for benefit of the Properties and their present and subsequent Owners as hereinafter specified, and will convey the Properties subject thereto:

NOW, THERFORE, Declarant hereby declares that all of the Properties above described shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of, and which shall run with the properties and be binding on all parties now or hereafter having any right, title or interest therein or to any part hereof, and shall inure to the benefit of each owner thereof, reserving unto Declarant all right, title and interest in and to any water rights, permits, or licenses appurtenant to the common areas as the same is defined hereinafter.

ARTICLE I DEFINITIONS

The following terms shall have the following meanings:

Section 1. "ASSOCIATION" shall mean and refer to the Apple Valley Acres Homeowners Association Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinabove described, specifically excluding the "Excluded lots."

Section 3. "LOT" or "LOTS" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 4. "OWNER" shall mean and refer to the recorded owner, whether one or more persons or entities, of the fee simple title to any lot which is part of the Properties, including contract sales, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "DECLARANT" shall mean and refer to Apple Valley Development Company, LLC, an Idaho Corporation, its successors, heirs and assigns, if such successors, heirs or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 6, "DECLARATION" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the County Recorder of Canyon County, State of Idaho.

Section 7. "DWELLING UNIT* shall mean and refer to that portion or part of any structure intended to be occupied by one family as a dwelling unit, together with the vehicular parking garage next thereto, and attached, and all projections there from.

2007082405

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WILLIAM H. KUNST
CANYON COUNTY RECORDER
BY Lane Nielson
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EXHIBIT
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Section 8. "MORTGAGE" shall mean any mortgage, deed of trust or other security instrument by which a dwelling unit or any part thereof is encumbered.

Section 9. "PLAT' shall mean a final Subdivision plat covering any real property in Apple Valley Acres, as recorded in the office of the County Recorder, Canyon County, State of Idaho, as the same may be amended by duly recorded amendments thereto.

Section 10. "MORTGAGEE" shall mean any person or any successor to the interest of such person named as the mortgagee, trust beneficiary or creditor under any mortgage, as mortgage as defined in section 8.

Section 11. "FIRST MORTGAGEE" shall mean any mortgagee, as defined in section 10, possessing a lien on any dwelling unit first and prior to any other mortgage, as that term is defined in section 8.

Section 12. "INSTITUTIONAL HOLDER" shall mean a mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 13. "COMMON AREA OR TRACT" shall mean the area designed as Tract or Common Area on the plat to be owned, used or maintained as set forth herein.

Section 14. "'IMPROVEMENT" shall mean any structure, facility or system, or other improvement or object, weather permanent or temporary, which is erected, constructed or placed upon, under or in a any portion of the properties including but not limited to buildings, fences, streets .drives, driveways, sidewalks, bicycle paths, curbs, landscaping, signs, lights, mailboxes .utility lines, pipes, irrigation lines, pumps, ditches, waterways, wells, recreational facilities and fixtures of any kind whatsoever.

Section 15. "IRRIGATION OR WATERWAY" shall mean any surface water amenity, including without limitation, any channel, ditch, slough, stream, well, including pumps, pipes and any other conveyance apparatus used in connection therewith which is located on the properties and which is included within or managed as Tract or Common area.

ARTICLE II HOMEOWNERS ASSOCIATION

Section 1. MEMBERSHIP: Every owner of a lot which is subject to assessment shall be a member of the association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the payment of the obligation. Members shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Such ownership shall be the sole qualification for membership and shall automatically commence upon a person becoming such owner and shall automatically terminate and lapse when such ownership in the Properties shall terminate or be transferred.

Section 2. VOTING RIGHTS: The association shall have one class of voting membership which shall be all owners and they shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot. The Declarant shall have three votes per lot owned. The vote applicable to any said lot being sold under contract of purchase shall be exercised by the contract seller. Fractional votes shall not be allowed.

Section 3. ASSESSMENTS:

A. Creation of lien and personal obligation of assessment.
Each owner of any lot, by acceptance of a deed therefore (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the association;

1. Regular annual or other regular periodic assessments or charges.

2. Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with interest, costs of collection and reasonable attorney's fees shall be a charge on the lot and shall be continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the owner of such lot at the time when the assessment fell due. The obligation shall remain a Lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successor in title, unless expressly assumed. The Declarant shall not be obligated to pay regular or special Assessments of any kind on lots owned by Declarant, until such time Declarant has sold all available Lots.

B- Purpose of Assessments: The assessments levied by the association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the properties and related to operation, improvement, common area, tract, restricted area and improvements thereon.

C. Maximum Annual Assessments: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be $300.

1. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than the maximum percentage increase allowable by Federal National Mortgage Association, if any, above the maximum assessment as set forth above.

2. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the amount set forth in the preceding paragraph by a vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

3. The Board of Directors of the Association may fix the annual assessments at an amount not in excess of the maximum: and said assessment shall be payable to the Association in regular monthly, quarterly, or yearly installments as may be determined by the Board of Directors.

a. The Declarant shall appoint the Board of Directors which shall be the positions of President, Vice President, Sectary and Treasurer and shall be the appointed President of the Apple Valley Acres Homeowners Association until such time as a minimum of 15 Lots are sold / closed. At that time a election shall be held by the Owners for new positions of the Board of Directors.

D. Initial Lot Fee : Upon the initial conveyance of each Lot the purchaser thereof shall pay and initial fee of $200 of which shall be placed in the Association maintenance fund.

E. Special Assessment for Capital Improvements: In addition to regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, Tract, Irrigation system, Restricted Area including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who have voting in person or by proxy at a meeting duly called for this purpose. Any such special assessment shall be payable over such a period as the Association shall determine.

F. Notice and Quorum of Any action Authorized Under Section C and E.
Written notice of any meeting called for the purpose of taking any action authorized under section C or E, above, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60) of all the votes of members shall constitute a quorum. If the required quorum is not present, another meeting may be called

subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty(60) days following the preceding meeting.

G. Date of Commencement of Annual Assessments :Due Dates: The annual assessments provided for herein shall commence as to a Lot Sold on the first day of the month following the initial conveyance of the said Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30)days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of assessment on a lot is binding upon the Association as of the date of its issuance.

H. Effect of Nonpayment of Assessment: Remedies of Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12) per annum. The Association may bring an action against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas, Tracts or Irrigation system or abandonment of his Lot.

I. Subordination of the Lien to Mortgages: The lien of assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to Mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

J. Exempt Property: The following property, subject to this Declaration, shall be exempt from the assessments created herein:

1. All property expressly dedicated to and accepted by a local public authority:
2. All Properties owned by the Declarant or an Association:
3. All lots owned by the Declarant, until title is transferred to another, or until occupancy, whichever occurs first:
4. All Common Areas, Tracts.

ARTICLE III. COMMON AREAS, TRACTS RIGHTS AND RESTRICTIONS:

Section 1. Enjoyment of Common Areas, Tracts; Each Owner shall have a right and easement of enjoyment in and to the common Area, tracts, as for its intended use, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to however, the following provisions:

A. The Common Area, Tracts and related facilities shall be under the ownership or control of the Declarant until the Declarant creates an easement or deeds over the said Common Area, Tracts and Facilities. The Declarant retains the right to create and deed over Common Area, Tracts and Facilities and easements thereon as it deems appropriate, but the Declarant must deed or give control of all Common Areas, Tracts and Facilities to the Association as of the date

Declarant owns not more than four (4) Lots collectively within the property.

B. Declarant, having reserved all right, title and interest in and to any and all water rights, permits, or licenses appurtenant to the Common Area, Tracts shall at all times have the right, in addition to any other rights it may have, to transfer to any of the lands owned by it or any other person or entity, or otherwise convey to any other person or entity, any and all water rights, permits or licenses which are appurtenant to the Common Area, Tracts.

C. Only the Declarant (prior to title of the Common Area / Tract's vesting in the Association) or the Association (after vesting of title) shall be permitted to engage in construction, excavation, or any other work which in any way alters any Common Area / Tract's or facility.

D. The rights of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area / Tract's and Facilities: and, in aid thereof, to place a mortgage or trust deed thereon, which shall be a first and prior lien there against: provided that the Common Area / Tract's may not be mortgaged or conveyed without the consent of at least 2/3 of the Owners and that any conveyance or mortgage of Common Area / Tract's shall be subject to and subordinate to rights of ingress of an Owner to his/ her Lot.

E. The right of the Association to dedicate or transfer all or any part of the Common Area / Tract's and Facilities to any Public Agency, Authority or Utility for such purposes and subject to such conditions as may be agreed to by the members: provided, however, that except to the Association's right to grant easements for utilities and similar or related purposes, no part of Common Area / Tract's and Facilities may be alienated, released, transferred, hypothecated or otherwise encumbered without the written approval of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly held for this purpose.

Section 2. Development Restriction: The Areas designated on the Plat as Common, shall be subject to the restrictions and conditions applicable to those areas as set forth on the Plat.

Section 3. Open Area: The Open Area, as defined herein and as may be designated as Open, Tract, Common or easement on the plat may only be used for open space as permitted or restricted by the restrictions and conditions applicable to Open Areas as set forth on the Plat. No person, by virtue of being an Owner, shall have any right of access to or the use or possession of the said Open Area.

Article IV. Irrigation System

Section 1. Irrigation - Water System: Each Lot shall have access to a Irrigation water supply to be constructed by the Declarant and owned and operated by the Declarant until conveyance to the Association. The Irrigation Water Supply System shall supply to each Lot an irrigation stub for lot irrigation. Use of the Irrigation System shall be subject to the Declarant and/ or Association's rights to collect reasonable fees therefore. No Lot owner shall be allowed not to pay any part of the assessments due to non use of the Irrigation system. Should any Owner fail to pay the charges for his irrigation water the Declarant and/ or Association or entity to which the Declarant or Association transfers the Irrigation System, shall have the right, after reasonable notice, to terminate Irrigation water service to such defaulting Owner. Neither the Declarant nor the Association shall have any liability for any temporary interruptions in the Irrigation service. Lot owners shall receive Irrigation water on a system shared basis.

The Declarant and or Association shall apply a schedule of water times per lot as needed for watering. All irrigation water fees and maintenance fees shall be paid for by the Assessments to the home owners. Each lot shall have irrigation water during the normal irrigation season.

Section 2. Conveyance of Irrigation System: The Declarant may convey the Irrigation System and Tract of land plated within Irrigation System and all of the improvements related thereto to the Association as such time the Declarant deems appropriate. Declarant must convey the above mentioned Irrigation System to the Association at such time as Declarant ceases to own any Lots which are subject to this Declaration.

Article V. EASEMENTS

Section 1. Future Easements: The Declarant, while it is the Owner, and thereafter the Association or the users Association as the case may be, shall have the future right to provide for such easements across, upon and under the surface of the Common Areas, Tracts as platted herein as may be reasonably necessary to serve the interest and convenience of the property owners of this subdivision for public or private ways, public utilities (including cable television), drainage, access, and subterranean water lines.

Section 2. Easement for Maintenance: The Declarant and the Association shall have a permanent easement to go upon the privately owned property of Owners in this subdivision to perform maintenance upon the properties, Common Area, Tract's and the irrigation supply system including but not limited to, snow removal, lawn maintenance, utility service and drainage system maintenance, subterranean water maintenance and fence maintenance, together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easements hereby reserved, all rights and privileges incident thereto, including the right from time to time to cut, trim and remove trees, brush, overhanging branches and other obstructions which may injure or interfere with the use, occupation or enjoyment of the reserved easement and the operation, maintenance and repair of utility service connections and drainage.

Article VI; MAINTENANCE RESPONSIBILITY

The Association or the users Association, as the case may be, shall provide maintenance to and be responsible for the Common Area, Tract's, Irrigation System .Fencing, Drainage Facilities and improvements thereon. In the event the need for maintenance or repair caused through the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become part of the assessments to which such Owner's Lot is subject. Each Owner shall be responsible for maintaining and keeping in good order and repair the exterior of his Dwelling Unit and any private decks, fences, courtyards, landscaping and lawn. Each Owner shall further be responsible to cut or otherwise control the weeds and other noxious plants on his Lot so as to avoid any unsightly condition or hazard or nuisance to the neighborhood. The Association reserves an easement for ingress, egress and maintenance as may be reasonably necessary to perform the maintenance duties of the Association. In the event of damage or destruction of a dwelling unit by fire or other casualty, the owner must complete repair and/or replacement of the dwelling unit within one- hundred and eighty (180) days of the damage or destruction.

Article VII: PROPERTY USE RESTRICTIONS:

The following restrictions shall be applicable to the properties:

A. Lot Use: All Lots shall be used for single family residential purposes and such uses as are customarily incidental thereto. No Lot shall be used at any time for commercial purposes. Notwithstanding the forgoing, the Declarant, or persons authorized by the Declarant, may use a Lot or Lots for development and sales activities relating to the subdivision, including but not limited to use of lots for model homes or a real estate marketing and sales office.

B. Animals: A resident may keep domestic animals: Horses, Mules, Cattle, and Sheep, for his own use and pleasure unless the presence of such creatures shall constitute a nuisance. The number of animals is not to exceed Canyon County Ordinances, for lot size to animal ratio. No hogs, swine, goats, poultry or foul, or commercial dog kennels of any kind shall be permitted on any lot in the subdivision. Dogs are to be leashed and otherwise controlled at all times when such animals are off the premises of its owner. Dogs are not allowed to run free in the subdivision.

C. Garbage and Refuse Disposal: No part of the property shall be used or maintained as a dumping ground for rubbish, trash or other waste. All garbage, trash must be kept in an approved trash container and kept out of site from street view. No trash burning shall be allowed on any lot at any time, unless approved by a majority of the Board of the Homeowners Association..

D. Nuisance: No nuisance, offensive or unsightly conditions (including but not limited to sights, smells, and sounds) shall be permitted upon any part of the properties nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. All exterior lighting shall be placed in such a manner to minimize glare and excessive light spillage onto neighboring Lots.

E. Outbuildings: No outbuildings shall be constructed, erected or placed until the same has been approved by the Architectural Control Committee as to size, location, design and material makeup. It's the Declarant's intent that the design of any outbuilding which the Architectural Control Committee may approve must be consistent with the dwelling unit existing or to be constructed on the said Lot and the placement of all dwellings and outbuildings are to be located so as to not block neighboring lots view and to minimize potential negative aesthetic impact on adjoining property and the subdivision.

F. Storage of Vehicles and Equipment: Any trailer, truck (larger than a standard pickup), motor home, boat, tractor, vehicle (other than automobiles), campers and garden or maintenance equipment, when not in actual use, shall be stored in such a manner as not to be an eye sore or nuisance. No vehicles of any type not in running order shall be allowed on any lot except concealed within an enclosed building. No unlicensed vehicles will remain on the property, other than inside a garage or shop, for more than 48 hours. No vehicles shall be parked on the streets at any time.

G. Leasing Restrictions: Any lease (as defined below) between an Owner and his tenant shall prove that the terms of the lease shall be subject in all respects to the provisions contained in this Declaration, any applicable Association's Articles on Incorporation and it's Bylaws, and that any failure by said tenant to comply with the terms of such documents shall be a default under such lease. For the purposes of this Declaration, a "lease" shall mean any agreement for the leasing or rental of a Dwelling Unit or any portion of a Lot including a month-to-month rental agreement and all such leases shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Dwelling Unit.

H. Sewer Restrictions: Until public sewer facilities are available to the subdivision, all sewage disposal for each lot shall be in a private septic system which shall be designed, constructed and installed on each Lot in accordance with the requirements of Canyon County.

I. Private Wells: Each Lot shall at owners expense install a Domestic Well for drinking water. The wells must be cased to a depth of not less than 300 feet. All wells must be installed under the direct direction of the Declarant during or before the completion of Dwelling on a Lot. All wells shall be permitted and shall meet with State of Idaho Law. Each Owner has an option to water up to one-half (1/2) acre of land using Domestic well water.

J. Landscaping: Within one-hundred and eighty (180) days after Dwelling completion located thereon, that portion of each lot adjacent to the Dwelling Unit and visible from the public right of way in the subdivision shall be landscaped to the bottom of the barrow pit of the roadway fronting the said Lot. A landscape plan shall be submitted to and approved by the Architectural Control Committee as provided in article IX, prior to commencement of any landscaping work. Landscaping beyond the adjacent Dwelling area, although not required, is preferred. It is encouraged that those areas be installed in lawn, pasture, or other approved landscaping to control weeds.

K. Fences: It is the Declarants desire to maintain a uniform look with fencing. Any and all fencing shall be approved for size, location and style by the Architectural Control Committee.

L. Drilling and Exploration: No oil or mining exploration or development of any nature shall be permitted on any Lot.

M. Signs: An 18"x 24" professional sign may be attached to the home or shop. Owners may advertise a Dwelling Unit and Lot for sale by displaying a single, neat and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on a Lot during construction or improvements. One entry sign may be placed on each Lot naming the property / Lot number, sold or available on the Declarants lots.

N. Subdividing: No Lot may be subdivided for the purpose of an additional building site. No Lot may be further subdivided, nor may any easement or other interests therein less than the whole be conveyed by the Owner thereof.

0. Discharge of Firearms: The discharge of firearms within the Subdivision is prohibited for any recreational purpose.

P. Mail and Newspaper Boxes: The placement, construction, and type of mail box shall be approved by the Architectural Committee after the committee has consulted with the US Postal Service.

Q. Lighting: Each lot shall have an outdoor light installed within 8 feet of the street and within 6 feet of each owner's driveway where the driveway meets the street. The light shall have a light sensor that turns the light on automatically at dusk and turns it off automatically at dawn. The light bulb shall be at least 100 watts but not more than 150 watts.

R. Solar Heaters and Television Dishes: Solar heaters shall be allowed on any dwelling. Television Dishes shall be allowed to be installed on each lot for the purpose of television reception. All dishes shall be contained and out of view from the street. Building plans showing the location and containment of television dish including design, material, and color or landscaping to be used to contain television dish must be approved by the Architectural Control Committee prior to installation of same. No ham radio antenna's shall be allowed on any lot and or dwelling unless approved by the Architectural Committee.

S. Use of Dwelling for Day Care or Office: No Dwelling within the subdivision shall be used for a day care, unless approved by a majority of the members of the Home Owners Association. In home offices shall be allowed as long as the owner of the Dwelling is the person or persons working, with no more than one employee at the Dwelling and no more than three cars per day coming and going from the Dwelling for business purposes.

ARTICLE VIII Building Requirements

Section 1. Minimum Area: Residential Dwelling Units must be single family residence only and must contain a minimum of Eighteen Hundred (1800) square feet of living area if single story, Two Thousand One Hundred (2100) sq. ft. if two levels, with a minimum living area of 1100 square feet on the main floor and 800 square feet on the second level. The square footage of the living area shall be based on the interior living space exclusive of porches, patios and garages. No building other structure shall be allowed within the subdivision which has more than two stories, unless the same is approved by the Architectural Control Committee prior to construction. No manufactured or relocated homes will be allowed to be placed on any Lot.

Section 2. Setbacks: All buildings shall be set back fifty feet from the public front right of way and thirty feet from any other property line. Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the County of Canyon entities having jurisdiction over the subdivision require setbacks different than those provided herein, the more restrictive shall control.

Section 3. Builder and Obligation of Completion of Construction:
Plans and specifications for new homes must be approved by the Architectural Control Committee per the requirements within. Following the date of acquisition of a Lot, the owner shall be obligated to diligently and continuously proceed therewith to completion of the entire dwelling within twelve months.

Section 4. Construction Requirements: Each Dwelling shall have wood siding (redwood, cedar, or spruce), vinyl siding, masonite, true lap siding, stucco, stone, or brick. No T-l-11 style siding may be used. All exterior front elevations must have a minimum of 40 square feet of brick, stone or culture stone. All roofs shall have a minimum 5/12 pitch and shall be comprised of architectural asphalt shingles, tile, or light weight concrete. Metal roofing shall be allowed only as accents to roofs (I.E. copper colored metal over bay). No 3-tab roofing. Each dwelling must have a minimum of a two car, attached or detached. No garage may be converted to living space. All materials, dwelling plans, colors and specifications shall be submitted to the Architectural Control Committee, and the lot owner shall receive written approval before any construction may commence on any Lot.

Section 5. Utilities: The connection to all utility facilities shall be underground and shall be inspected and approved by the appropriate governmental entity having jurisdiction thereof and the company providing the utility service, if required. Utility meters shall be placed in an unobtrusive location where possible. Each Owner shall be responsible to pay for an extension of electrical service or

facilities for placement of a meter or a transformer beyond that provided for such Lot, and any credits or moneys received by such Owner by Idaho Power Company offsetting any costs of such extensions which would otherwise have been rebated directly by Idaho Power Company to the Declarant shall be promptly paid by such Owner to the Declarant. Propane tanks shall be allowed on lots for the purpose to provide propane gas for each Lot. Propane tanks shall be contained as so they are not visible from the public street. Each owner shall provide with there submittal of Dwelling plans, materials, specifications, colors and landscape plans a detail showing a plan of containment of propane tank

Section 6. Driveway and Driveway Culvert: Each Owner shall install a concrete, concrete pavers or asphalt Driveway from the edge of the pavement to the dwelling unit or garage on the Lot in a location approved by the Architectural Control Committee, and shall install and maintain in the borrow ditch adjacent to the public right of way a culvert approved by Canyon County having a minimum diameter of twelve inches. No owner may install culverts in the borrow ditch to eliminate the borrow ditch along his lot, unless approved by the Architectural Committee.

ARTICLE IX Architectural Control

Section 1. Creation: Within sixty days of the date the Declarant first conveys a Building Lot to an Owner, Declarant shall appoint a minimum of three and maximum of five individuals to serve on the Architectural Control Committee. Each member shall hold office until such time as such member has resigned or has been removed, or such member's successor has been appointed, as provided herein. A member of the Architectural Control Committee need not be an Owner. Members of the Architectural Control Committee may be removed by the person or entity appointing them at any time without cause.

Section 2. Declarants Right of Appointment: At any time, and from time to time prior to ten (10) years after recording date of this Declaration, Declarant shall have the exclusive right to appoint and remove all members of the Architectural Control Committee. At all other times, the Association Board shall have the right to appoint and remove all members of the Architectural Control Committee. If a vacancy on the Architectural Control Committee occurs and a permanent replacement has not been appointed, Declarant or the Board, as the case may be, may appoint an acting member to serve for a specified temporary period not to exceed one (1) year.

Section 3. Review of Proposed Construction: The Architectural Control Committee shall consider and act upon any and all plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties as from time to time shall be assigned to it by Declarant (or Association Board after Declarant relinquishes control), including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Control Committee. The Declarant (or Association Board after Declarant relinquishes control) shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of improvements shall be submitted for the Committees review and approval. The Architectural Control Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the habitat of the Common Area, Tract's, or the appearance of the surrounding area of the properties as a whole, that the appearance of any structure affected thereby will be in harmony with the other structures within the subdivision, and the upkeep and maintenance thereof will not become a burden on the Owner or Association.

Section 3.1 Conditions on Approval: The Architectural Control Committee may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, and /or upon the agreement of the Owner who submitted the same ("applicant") to grant appropriate

easement to an Association for the maintenance thereof, and/or upon the agreement of the Applicant to reimburse an Association for the cost of maintenance, and may require submission of additional plans and specifications or other information before approving or disapproving material submitted.

Section 3.2 Architectural Control Committee Rules: The Architectural Committee also may establish rules and/or guidelines setting forth procedures for and the required content of the applications and plan submitted for approval. Such rules and guidelines may establish, without limitation, specific rules and regulation regarding design and style elements, landscaping and fences and other structures such as animal enclosures as well as special architectural guidelines applicable to Lots locate adjacent to public and/or private open space.

Section 3.3 Detailed Plans: The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitations, floor plans, site plans, landscape plans, drainage plans, elevation drawings and descriptions of samples of exterior materials and colors. Until receipt by the Architectural Committee of any required plans and specifications, the Architectural Committee may postpone review of any plan submitted for approval.

Section 3.4 Architectural Control Committee Decisions: Decisions of the Architectural Control Committee and the reasons there for shall be transmitted by the Architectural Control Committee to the applicant at the address set forth in the application for approval within thirty (30) days after filing all materials required by the Committee. The Applicant shall not assume that the Committee will approve the proposed request and start construction of any type with out written approval of same.

Section 4. Meetings of the Architectural Control Committee: The Architectural Control Committee shall meet from time to time as necessary to perform its duties hereunder.

Section 5. No Waiver of Future Approvals: The approval of the Architectural Control Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Control Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

Section 6. Compensation to Members: The members of the Architectural Control Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder and except as otherwise agreed by the Association Board.

Section 7. Architectural Control Committee Inspection: Non-Compliance: During the construction of approved dwelling and or improvement the Architectural Control Committee may inspect such dwelling and or improvement. If the Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance specifying the particular non-compliance and shall require the Owner to remedy the same.

Section 7.1 Failure to Remedy any Non. Compliance: If upon the expiration of thirty (30) DAYS FROM THE DATE OF SUCH NOTIFICATION, OR ANY LONGER TIME the Committee determines to be reasonable, the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Association Board in writing of such failure. Upon notice and hearing, as provided in the bylaws, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of collecting or removing same. If non-compliance exists, the Owner shall remedy or remove the same within a period of time

not more than forty-five (45) days from the date of the announcement of the Board ruling, unless the Board specifies a longer time as reasonable. If the Owner does not comply with the Board ruling within such period, the Board, at its option may either remove the non-complying improvement or remedy the non-compliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Limited Assessment against such Owner for reimbursement pursuant to this Declaration.

Section 8. Non-Liability of Architectural Control Committee: Neither the Architectural Control Committee nor any member thereof, nor its duly authorized Architectural Control Committee representative, nor the Declarant, nor the members of the Homeowners Association Board of Directors shall be liable to any Association, or to any Owner or grantee for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Control Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Control Committee. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic consideration and the overall benefit or detriment which would result to the immediate vicinity and to the properties generally. The committee shall take into consideration the aesthetic aspects of the Architectural designs, placement of building, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 9. Variances: The Architectural Control Committee may authorize variances from compliance with any of the architectural provision of this Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardships, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Control Committee, and shall become effective upon recordation in the office of the County Recorder of Canyon County. If such variances are granted, no violation of the covenants, conditions or restrictions contained in the Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provision hereof covered by the variance, nor shall it effect in any way the Owner's obligation to comply with all governmental laws and regulations affecting such Owner's use of the Lot, including but not limited to zoning ordinances or requirements imposed by any governmental or municipal authority.

Section 10: Construction and Sales Period Exception: During the course of construction of any permitted structures or improvements and during the initial sales period, the restrictions (including sign restrictions) contained in this Declaration or in any Supplemental Declaration shall be deemed waived to the extent necessary to permit such construction and the sale of all Dwelling Units; provided that, during the course of such construction and sales, nothing shall be done which will result in a violation of these restrictions upon completion of construction and sale. Further, Declarant shall have the right to select and use any individual Dwelling Unit or Units Owned by it as Models and or spec homes for sales purposes. If Declarant does elect to construct said Dwelling for use as model or spec home no assessments shall be required till which time Dwelling is sold and closed to a person or persons other than Declarant.

Article X - INSURANCE AND BOND

Section 1. Types of Insurance: The Association may obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time. The Association may secure and maintain at all times the following insurance and bond coverage:

A. A multi-peril-type policy covering any Association owned property or easement providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than One Hundred percent (100%) of the insurable value (based upon replacement cost).

B. The Association must, if available at a reasonable cost, have a comprehensive policy of public liability insurance covering all of the Association owned facilities. Such insurance policy shall contain a severability of interest endorsement, which shall preclude the insurer from denying the claim of a dwelling unit owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

C. The Association may obtain liability insurance affording coverage for the acts, errors and omissions of its Directors and Officers, including members of the Architectural Control Committee and other Committees as may be appointed from time to time by the Board of Directors of the Association in such amount as may be reasonable in the premises.

D. The following additional provisions shall apply with respect to insurance.

1. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgages.
2. Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its Officers, the Owners and their respective servants, agents and guests: that it cannot be canceled, suspended or Invalidated due to the conduct of any agent, officer or employee of the Association without a prior written demand that the defect be cured: than any "no other insurance" clause therein shall not apply with respect to insurance held individually of the Owners.
3. All policies shall be written by a company licensed to write insurance in the state of Idaho and all hazard insurance policies shall be written by a hazard insurance carrier holding financial rating by Best's Insurance Reports of Class VI or better.
4. Notwithstanding anything herein containing to the contrary, insurance coverage must be in such amounts and meet other requirements of the Federal Home Loan Mortgage Corporation.

E. The Association may obtain bonds and insurance against such other risks of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any

personal property of the Association located thereon, its Directors, Officers, Agents, Employees and Association fund.

ARTICLE XI CONDEMNATION:

Section 1 .Consequences of Condemnation: If at any time or times, all or any part of the Association owned property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

Section 2. Proceeds: All Compensation, damages or other proceeds there from, the sum of which is hereinafter called the "condemnation award" shall be payable to the Association.

Section 3. Apportionment: The condemnation award shall be apportioned among the Owners having interest in the condemned properly equally on a per lot basis. The association shall, as soon as practicable, determine the share of the condemnation award to which each Owner is entitled. Such shares shall be paid into separate accounts, one account for each lot. Each such account shall remain in the name of the Association and shall be further identified by lot number and the name of the Owner thereof. From each separate account, the Association, as attorney in fact, shall use and disburse the total amount of each such accounts without contribution from one account to the other, first to mortgagees and other Honors in the order of priority of their Mortgages and other liens and the balance remaining to each respective Owner.

ARTICLE XII GENERAL PROVISION

Section 1. Enforcement: The Association or any Owner or the Owner of any record mortgage upon any part or the properties, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by an Association, or by an Owner to enforce any covenant or restriction herein contained shall in no event by deemed a waiver of the right to do so thereafter.

Section 2, Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment: The covenants and restrictions of this Declaration shall run with the land and shall run inure to the benefit of and be enforced by the Association or the legal Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, and successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall automatically extended for successive periods often (10) years. Except as otherwise provided herein, any of the covenants and restrictions of this Declaration, except the easements herein granted, may be amended by an instrument signed by members entitled to cast not less than two thirds (2/3) percent of the votes of membership. Any amendment must be recorded.

Section 4. Assignment of Declarant: Any or all rights, powers and reservations of Declarant herein contained may be assigned to an Association or to any other corporation or association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to the particular rights, powers ,and reservations assigned, upon any such corporation or association evidencing its intent in writing to accept such assignment, have the same rights and powers and be subject to the obligations and duties as are given to and assumed by the Declarant herein. All rights of the

Declarant hereunder reserved or created shall be held and exercised by the Declarant alone, so long as it owns any interest in any portion of the properties.

IN WITNESS WHEREOF, the Declarant has caused its corporate name to be hereunto subscribed this _____ day of _____, 20___

DECLARANT: Apply Valley Development Company, LLC

By: _____
Lane T. Nielson – Partner
Pres. - NFN Inc.

State of Idaho)
ss.
County of Canyon)

On this 12th day of December 2007 before me the undersigned Notary public in and for said state, personally appeared LANE T NIELSON, Known or identified to me to be a partner in Apple Valley Development Co., LLC, the corporation that executed the within instrument, or the person who executed the instrument on behalf of said Corporation, and acknowledged to me that such Corporation executed the same.

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

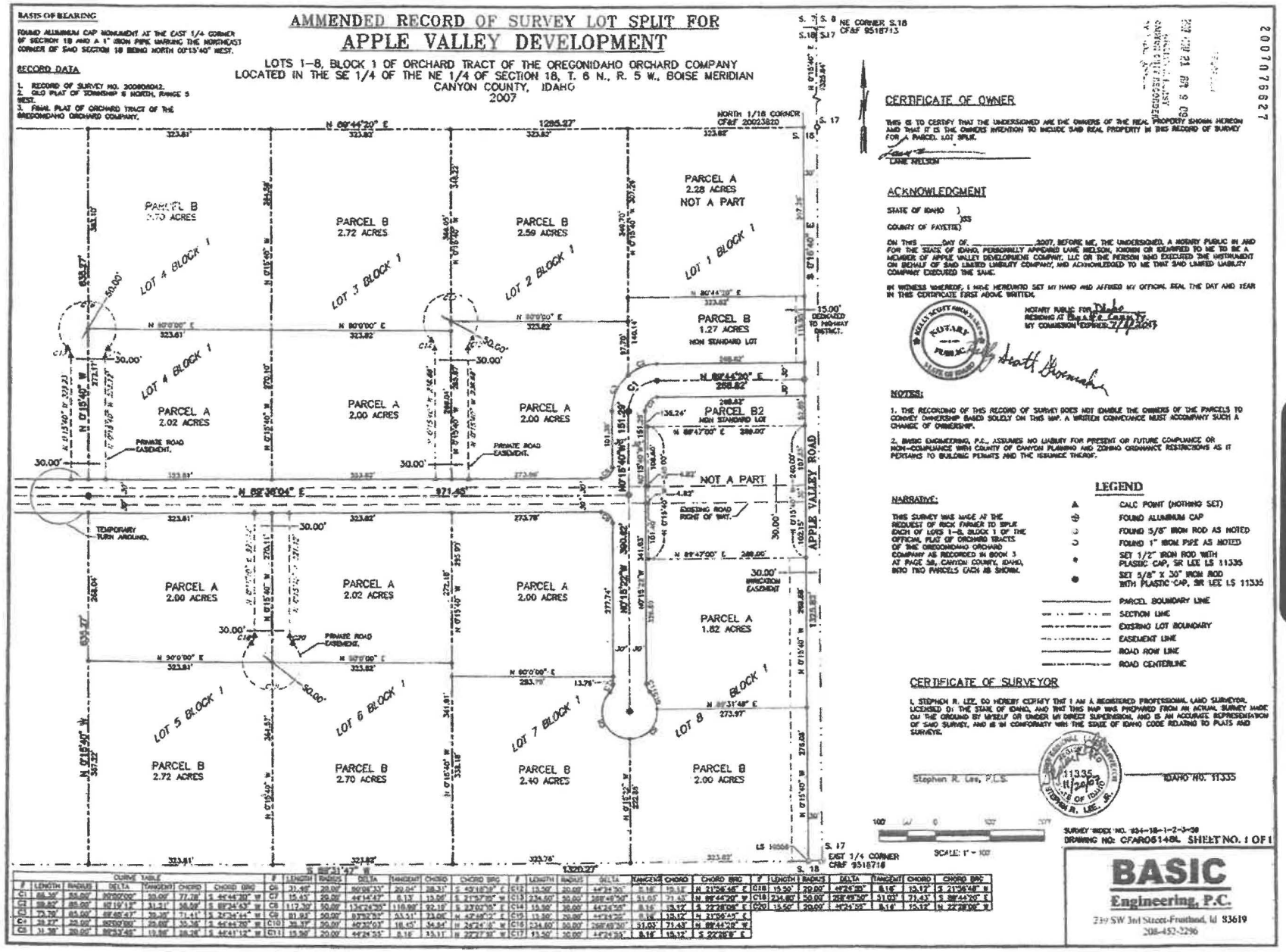
ERICKA HEIDEMAN NOTARY PUBLIC STATE OF IDAHO

_____
Notary Public, State of Idaho
Residing at EMMETT, ID 83617
My Commission expires: 2/28/2013

EXHIBIT A 'Property'

A parcel of real property situated in Blocks 1, 2, 3 and 4 of the Orchard Tract of the Oregon-Idaho Orchard
Company, recorded and on file at the Office of the Canyon County Recorder at Book 3 of Plats, Page 59, lying within the Northeast Quarter Section 18, Township 6 North, Range 5 West, Boise Meridian, Canyon County, Idaho, and being more particularly described as:

COMMENCING at the Northeast corner of Section 18, Township 6 North, Range 5 West,
Boise Meridian, Canyon County, Idaho, marked by a 5/8 inch iron pin, and perpetuated in the
officail records of Canyon County, Idaho as Instrument Number 9518713; thence
South 89° 47' 00" West a distance of 25.00' to a 5/8" iron pin marking the Northeast
corner of said Block 4 at the Westerly right-of-way of Apple Valley Road, the POINT OF BEGINNING; thence
South 00° 15' 40" East along said Westerly right-of-way a distance of 677.90 feet to a point; thence
South 89° 44' 20" West a distance of 323.77 feet to a point; thence
South 00° 15' 35" East (formerly South 00° 13' 00" East) a distance of 944.61 feet to a point; thence
North 89° 44' 20" East a distance of 323.79 feet to a point on the Westerly right of way of Apple Valley Road;
thence
South 00° 15' 40" East along said right-of-way a distance of 243.39 feet to a point from which a 5/8" iron pin
bears
South 89° 47' 00" West 3.00 feet; thence
South 89° 47' 00" West 289.00 feet to a 5/8" iron pin; thence
South 00° 15' 40" East 240.00 feet to a 5/8" iron pin; thence
North 89° 47' 00" East a distance of 289.00 feet to a 5/8" iron pin on the Westerly right of way of Apple Valley
Road; thence
South 0° 15' 40" East a distance of 545.76 feet along said right of way to a 5/8" iron pin marking the Southeast
corner of said Block 1; thence
South 89° 31' 49" West a distance of 2,615.55 feet along the East-West centerline of Section 18, to a 5/8" iron
pin recorded at the official records of Canyon County as Instrument No. 200579917, marking the center of said
Section 18; thence
North 00° 14' 48" West a distance of 1,021.44 feet to a 5/8" iron pin marking the mean high water mark of the right
bank of the Snake River; thence the next six courses following the mean high water line of Snake River
North 52° 24' 29" East a distance of 126.67 feet to a 5/8" iron pin;
North 19° 22' 42" East a distance of 413.94 feet to a 5/8" iron pin;
North 01° 48' 20" East a distance of 433.14 feet to a 5/8" iron pin;
North 18° 15' 34" East a distance of 246.44 feet to a 5/8" iron pin;
North 20° 34' 18" East a distance of 259.68 feet to a 5/8" iron pin;
North 22° 16' 45" East a distance of 287.42 feet to a 5/8" iron pin; thence
North 89° 47' 00" East a distance of 124.00 feet to a 5/8" iron pin marking the Meander corner common to Sections 7
and 18 and recorded at the official records of Canyon County as Instrument No. 200579918; thence
North 89° 47' 00" East a distance of 1,955.00 feet to a 5/8" iron pin; which is the POINT OF BEGINNING.



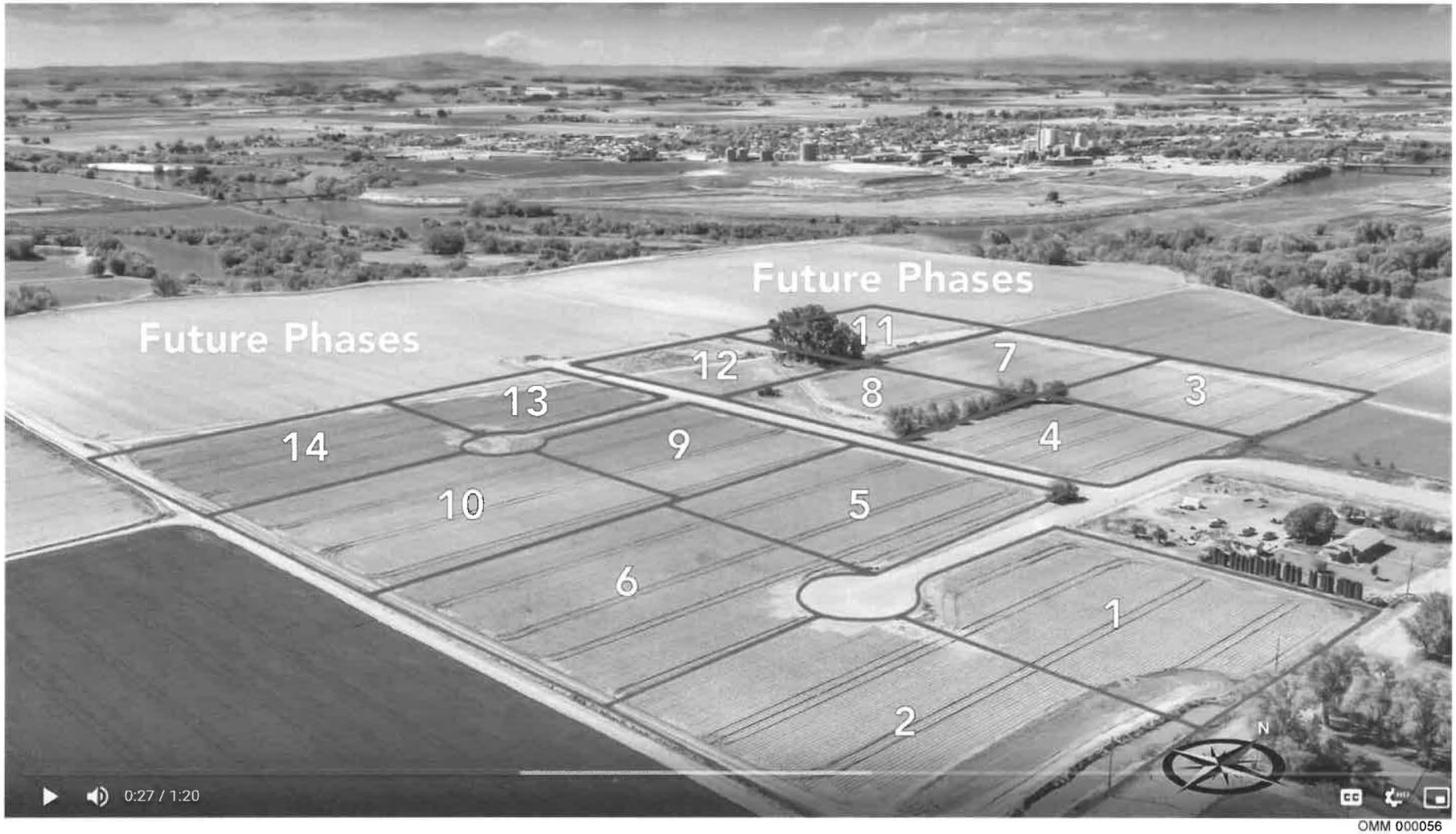
OMM 000021

EXHIBIT 112

OMM 000055



EXHIBIT
113



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JAN 11 2019
WATER RESOURCES
WESTERN REGION

S. BRYCE FARRIS [ISB No. 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707
T (208) 629-7447
F (208) 629-7559
E *bryce@sawtoothlaw.com*

Attorneys for Protestant
Farmers' Co-Operative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

APPLICATION FOR PERMIT NO. 63-34612 IN THE NAME OF PARMA SCHOOL DISTRICT 137	**STIPULATION TO RESOLVE PROTEST**

COMES NOW, Applicant Parma School District 137 (hereinafter "Applicant"), and the Protestant Farmers' Co-Operative Ditch Company (hereinafter "Protestant"), and hereby submit this *Stipulation to Resolve Protest* in the above-captioned matter.

Applicant and Protestant hereby stipulate and agree as follows:

1. Applicant and Protestant agree that the permit for Water Right No. 63-34612 may be granted contingent upon the following conditions be included in Applicant's final Permit to Appropriate Water for Water Right No. 63-34612

a. The primary surface irrigation water for the place of use authorized under this right is delivered by Farmers' Co-Operative Ditch Company. The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion under this right to those times when the primary surface water supply is not available or the primary



surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

b. If the primary surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

c. This right when combined with all other rights shall provide no more than one (1) inch, 0.02 cfs, per acre at the field headgate for irrigation of the place of use.

d. The source of water in the Parma Drain at the point of diversion for Permit to Appropriate Water for Water Right No. 63-34612 is wastewater, which includes wastewater/return flows from Farmers' Co-Operative Ditch Company. The upstream wasting of water may be discontinued at any time. This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting, or to recapture.

2. Protestant hereby withdraws its Protest filed in the above-captioned matter based upon the inclusion of the conditions stated in this Stipulation in Applicant's final Permit to Appropriate Water for Water Right No. 63-34612. This filing of this Stipulation to Resolve Protest shall serve as Protestant's withdrawal of its Protest.

DATED this 10th day of December, 2018.

By: Jim Norton
Jim Norton
Parma School District 137

DATED this 9th day of ~~December~~ January, 2019.

SAWTOOTH LAW OFFICES, PLLC

By: _____
S. Bryce Farris
Attorneys for Protestant, Farmers' Co-Operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of ~~December~~ January, 2019, I caused a true and correct copy of the foregoing **STIPULATION TO RESOLVE PROTEST** to be served by the method indicated below, and addressed to the following:

Jim Norton
Parma School District 137
805 E. McConnell
Parma, ID 83660

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

_____
S. Bryce Farris

S. BRYCE FARRIS [ISB No. 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
P.O. Box 7985
Boise, Idaho 83707
T (208) 629-7447
F (208) 629-7559
E *bryce@sawtoothlaw.com*

Attorneys for Protestant
Middleton Irrigation Association, Inc.

RECEIVED
JAN 17 2019
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

APPLICATION FOR PERMIT NOS. 63-34582 THRU 63-34594 (13 Total) IN THE NAME OF DRK, LLC	**STIPULATION TO RESOLVE PROTEST**

COMES NOW, Applicant DRK, LLC (hereinafter "Applicant"), and the Protestant Middleton Irrigation Association, Inc. (hereinafter "Protestant"), and hereby submit this *Stipulation to Resolve Protest* in the above-captioned matter.

Applicant and Protestant hereby stipulate and agree as follows:

1. Applicant and Protestant have agreed to enter into a License Agreement, which shall be recorded with the Canyon County Recorder's Office, concerning the use and delivery of irrigation water from Protestant's facilities, namely the Lemp Lateral, to continue to provide primary surface water to the Applicant's property along with the supplemental water which may be utilized consistent with Applicant's permits for Water Right Nos. 63-34582 thru 63-34594 . In addition to the terms and conditions provided in said License Agreement, Applicant and Protestant agree that the permits for Water Right Nos. 63-34582 thru 63-34594 may be granted contingent

COPY



upon the following conditions be included in Applicant's final Permit to Appropriate Water for Water Right Nos. 63-34582 thru 63-34594:

a. The primary surface irrigation water for the place of use authorized under this right is delivered by Middleton Irrigation Association, Inc. The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion under this right to those times when the primary surface water supply is not available or the primary surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

b. If the primary surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

c. This right when combined with all other rights shall provide no more than one (1) inch, 0.02 cfs, per acre at the field headgate for irrigation of the place of use.

2. Protestant hereby withdraws its Protest filed in the above-captioned matter based upon the inclusion of the conditions stated in this Stipulation in Applicant's final Permit to Appropriate Water for Water Right Nos. 63-34582 thru 63-34594. This filing of this Stipulation to Resolve Protest shall serve as Protestant's withdrawal of its Protest.

DATED this 8 day of January, 2019.

By: Michael K Conkling
Managing Member
DRK, LLC

DATED this 15 day of January, 2019.

SAWTOOTH LAW OFFICES, PLLC

By: _____
S. Bryce Farris
Attorneys for Protestant, Middleton Irrigation Association, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of January, 2019, I caused a true and correct copy of the foregoing **STIPULATION TO RESOLVE PROTEST** to be served by the method indicated below, and addressed to the following:

Alan Mills
P.O. Box 206
Middleton, ID 83644

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

DRK, LLC
11347 W. Dallan Ct.
Boise, ID 83713

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

_____
S. Bryce Farris

S. BRYCE FARRIS (ISB # 5636)
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Telephone (208) 629-7447
Facsimile (208) 629-7559
Email: bryce@sawtoothlaw.com

Attorneys for Protestant
Nampa & Meridian Irrigation District

RECEIVED
FEB 11 2019
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

APPLICATION FOR PERMIT NO. 63-34571 IN THE NAME OF WEST ADA SCHOOL DISTRICT	**STIPULATION TO RESOLVE PROTEST**

COMES NOW, Applicant West Ada School District (hereinafter "Applicant"), and the Protestant Nampa & Meridian Irrigation District (hereinafter "Protestant"), and hereby submit this *Stipulation to Resolve Protest* in the above-captioned matter.

Applicant and Protestant hereby stipulate and agree as follows:

1. Applicant and Protestant agree that the permit for Water Right No. 63-34571 may be granted contingent upon the following conditions be included in Applicant's final Permit to Appropriate Water for Water Right No. 63-34571:

a. The primary surface irrigation water for the place of use authorized under this right is delivered by Nampa & Meridian Irrigation District. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under



this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

b. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

c. The ground water diversion rate for this right shall not exceed 0.84 cfs. Provided, further, this right when combined with all other rights shall provide no more than one (1) inch, 0.02 cfs, per acre when averaged over a twenty-four hour period based upon the amount of water applied over such twenty-four hour period. However, should the lands authorized to be irrigated under this right ever cease to be a school, park, cemetery or golf course recognized by the Department as allowing more than one (1) inch per acre, then this right when combined with all other rights shall provide no more than one (1) inch, 0.02 cfs, per acre at the field headgate for irrigation of the place of use.

2. Protestant hereby withdraws its Protest filed in the above-captioned matter based upon the inclusion of the conditions stated in this Stipulation in Applicant's final Permit to Appropriate Water for Water Right No. 63-34571. This filing of this Stipulation to Resolve Protest shall serve as Protestant's withdrawal of its Protest.

DATED this 31 day of January, 2019.

By: _____
ASST. SUPT.
West Ada School District

DATED this 6th day of February, 2019.

SAWTOOTH LAW OFFICES, PLLC

By: _____
S. Bryce Farris
Attorneys for Protestant, Nampa & Meridian Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6 day of February, 2019, I caused a true and correct copy of the foregoing **STIPULATION TO RESOLVE PROTEST** to be served by the method indicated below, and addressed to the following:

West Ada School District
Attn: Spencer McLean
1303 E. Central Drive
Meridian, ID 83642

(✓) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

SPF Water Engineering, LLC
c/o Lori Graves
300 E. Mallard Drive, Suite 350
Boise, ID 83706

(✓) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Idaho Department of Water Resources
200 W. Front Street
Boise, Idaho 83702

(✓) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

S. Bryce Farris

Miller, Nick

From: Miller, Nick
Sent: Friday, January 24, 2020 3:52 PM
To: 'Lori Graves'; 'Andy Waldera'
Cc: 'pcharlton@vallivue.org'; 'Dion Zimmerman'; 'Jason Thompson'; 'Debby Long'; 'Mark Zirschky (mark@pioneerirrigation.com)'
Subject: RE: FW: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

...Also, with this email message, I am cancelling the prehearing conference that was scheduled to be held in this matter on February 19. I will not send a separate notice of cancellation by mail.

Please let me know if you have further questions in this matter.

Nick.

From: Miller, Nick
Sent: Friday, January 24, 2020 3:48 PM
To: 'Lori Graves' <LGraves@spfwater.com>; Andy Waldera <andy@sawtoothlaw.com>
Cc: 'pcharlton@vallivue.org' <pcharlton@vallivue.org>; 'Dion Zimmerman' <dzimmerman@designwestid.com>; 'Jason Thompson' <JThompson@spfwater.com>; 'Debby Long' <debby@sawtoothlaw.com>; 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>
Subject: RE: FW: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Thank you, Lori.

I will place this email string in the file and continue processing the application. I will forward a draft of any approval to the parties to provide an opportunity to ensure the conditions included on the draft are acceptable to the parties before issuing an approval.

Nick.

From: Lori Graves [mailto:LGraves@spfwater.com]
Sent: Friday, January 24, 2020 3:32 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Andy Waldera <andy@sawtoothlaw.com>
Subject: FW: FW: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Nick and Andy,

Below is the Superintendent's email agreement.

From: Pat Charlton <pat.charlton@vallivue.org>
Sent: Friday, January 24, 2020 1:37 PM
To: Lori Graves <LGraves@spfwater.com>
Cc: Andy Waldera <andy@sawtoothlaw.com>
Subject: Re: FW: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Hi Lori,



Yes, I have read through the email chain and the standard conditions listed in the email comments are acceptable. I agree that these will serve as protest settlement and allow permit processing to proceed.

Thanks,
Pat

On Fri, Jan 24, 2020 at 12:38 PM Lori Graves <LGraves@spfwater.com> wrote:

Hi Pat,

Please read the email string below. Sounds like your email response to me indicating the standard conditions listed below are acceptable will serve as protest settlement and allow permit processing to proceed. I will then forward to Andy and IDWR. Thanks Pat.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Thursday, January 23, 2020 3:25 PM
To: Andy Waldera <andy@sawtoothlaw.com>
Cc: Lori Graves <LGraves@spfwater.com>;**Subject:** RE: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Andy,

You did not misspeak... I just didn't read thoroughly!

I am OK with putting this email chain in the file to document the settlement.

Nick.

From: Andy Waldera [mailto:andy@sawtoothlaw.com]
Sent: Thursday, January 23, 2020 2:29 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Lori Graves <LGraves@spfwater.com>; 'Mark Zirschky (mark@pioneerirrigation.com)' <mark@pioneerirrigation.com>; Debby Long <debby@sawtoothlaw.com>
Subject: RE: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Hi Nick.

Sorry if I misspoke; my intention was that you use my last email as the "settlement," because I presume that the requested water right conditions can be included on the face of the water right itself absent of a separate settlement agreement.

Thus, I am hoping that if Lori chimes in with Vallivue's "approval" via email, our respective emails will be good enough for your purposes.

Please let me know.

Thanks,

Andy

From: Miller, Nick [mailto:Nick.Miller@idwr.idaho.gov]
Sent: Thursday, January 23, 2020 2:22 PM
To: Andy Waldera
Cc: Lori Graves; 'Mark Zirschky (mark@pioneerirrigation.com)'; Debby Long
Subject: RE: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Hi Andy,

Thanks for the update. I agree the proposed settlement is pretty standard and I don't see us handling this differently than in other recent situations. I will await receipt of a settlement and then I'll plan to cancel the prehearing.

Nick.

From: Andy Waldera [mailto:andy@sawtoothlaw.com]
Sent: Thursday, January 23, 2020 1:40 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Lori Graves <LGraves@spfwater.com>; 'Mark Zirschky (mark@pioneerirrigation.com)'

<mark@pioneerirrigation.com>; Debby Long <debby@sawtoothlaw.com>
Subject: Vallivue School District Application for Permit No. 63-34800 (Pioneer Irrigation District Protest)

Good afternoon, Nick.

As you likely know, the above-referenced matter is currently set for pre-hearing conference on February 19. In an effort to avoid that exercise, Pioneer and Vallivue have reached an agreement whereby Pioneer will conditionally withdraw its pending protest in exchange for the following two water right conditions/remarks:

1. The Department's typical "shoulder season" / supplemental use condition:

The primary surface irrigation water for the place of use authorized under this water right is delivered by Pioneer Irrigation District. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights only when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule of Pioneer Irrigation District. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is not deliverable due to non-payment of annual assessments without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.

***

And

***

2. The following rate-related remark owing to the school district's higher-than-typical instantaneous diversion rate request:

The groundwater diversion rate for this right shall not exceed 2.22 cfs; provided further that this right when combined with all other rights shall provide no more than 0.02 cfs (one miner's inch) per acre irrigated averaged over a twenty-four (24) hour period. Should the place of use of this right ever cease to be a school, park, cemetery or golf course recognized by the Department as eligible for an instantaneous diversion rate exceeding 0.02 cfs (one miner's inch) per

acre during a portion of any twenty-four (24) hour period, then this right when combined with all other rights shall provide no more than 0.02 cfs (one miner's inch) per acre at the field headgate for irrigation of the place of use.

As noted above, the first proposed remark/condition is already a standard IDWR remark (save the reference specifically to Pioneer Irrigation District). Thus, I doubt it will cause IDWR much grief.

Regarding the second proposed remark/condition, while not necessarily "standard," my understanding is that the remark has been accepted by IDWR in the context of other school district applications that SPF has worked on in other parts of Ada and Canyon Counties where a higher than typical diversion rate has likewise been requested.

Unless the Department disagrees, it seems that the Pioneer-requested remarks/conditions are items that IDWR can administer and enforce (i.e., the remarks/conditions are not items that need be included in a separate settlement stipulation/contract that correspondingly is referred to in another condition of approval). If the Department disagrees with inclusion of the remarks/conditions on the face of the water right, please let me know and I will prepare a separate settlement stipulation for Vallivue and Pioneer signature. But, I am hoping to avoid this step if possible in favor of simply letting the water right conditions dispose of the matter.

Regards,

Andy

Andrew J. Waldera

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SAWTOOTH LAW
OFFICES, PLLC

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--

Dr. Patrick Charlton, Superintendent
Vallivue School District #139

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EXHIBIT
tabbies
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Chief of Natural Resources Division

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Attorneys for Respondents

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EDEN'S GATE LLC, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his official capacity as Director of the Idaho Department of Water Resources, Respondents.	**Case No. CV14-21-10116** **NOTICE OF LODGING THE AGENCY TRANSCRIPT AND RECORD WITH THE AGENCY**
IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC	

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

In accordance with I.R.C.P. 84(j), YOU ARE HEREBY NOTIFIED that the agency record and transcript, having been prepared pursuant to I.R.C.P. 84(f), (g), and (i), are lodged with the Idaho Department of Water Resources for the purpose of settlement.

A copy of the agency transcript and record filed with the Department have been uploaded to the Department's website. The parties may visit https://idwr.idaho.gov/legal-actions/district-court-actions/edens-gate-district-court/ and follow their browser's document download procedure to obtain a copy of the agency transcript and record after expanding the accordion labeled "Agency Transcript and Record" and clicking on the PDFs titled "Agency Hearing Transcript on Appeal" and "Agency Record on Appeal."

The parties have fourteen (14) days from the date of this notice to file any objections to the transcript and record. The agency's decision on any objection timely filed along with all evidence, exhibits, and written presentations on the objection shall be determined by the agency within fourteen (14) days and included in the record. If no objections are filed within that time, the transcripts and record shall be deemed settled. Subsequently, the agency will lodge the settled transcripts and record with the District Court pursuant to I.R.C.P. 84(k).

DATED this 6th day of January 2022.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

GARRICK L. BAXTER
Deputy Attorney General
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of January 2022, I caused to be served a true and correct copy of the foregoing *Notice of Lodging the Agency Transcript and Record with the Agency* by iCourt e-filing to:

Albert P. Barker Michael A. Short **BARKER ROSHOLT & SIMPSON LLP** 1010 W. Jefferson St., Ste. 102 P.O. Box 2139 Boise, ID 83701-2139 apb@idahowaters.com mas@idahowaters.com *Attorneys for Petitioner Eden's Gate LLC*	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ iCourt E-File and Serve
Bryce Farris **SAWTOOTH LAW OFFICES, PLLC** P.O. Box 7985 Boise, Idaho 83707 bryce@sawtoothlaw.com *Attorney for Administrative Protestant Farmers Co-Operative Ditch Company*	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ iCourt E-File and Serve

GARRICK L. BAXTER
Deputy Attorney General
Idaho Department of Water Resources

LAWRENCE G. WASDEN
ATTORNEY GENERAL

DARRELL G. EARLY
Chief of Natural Resources Division

GARRICK BAXTER, ISB No. 6301
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Attorneys for Respondents

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EDEN'S GATE LLC, Petitioner, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his official capacity as Director of the Idaho Department of Water Resources, Respondents, and FARMERS CO-OPERATIVE DITCH COMPANY, Intervenor.	**Case No. CV14-21-10116** **AGENCY'S CERTIFICATE OF RECORD AND EXHIBITS**

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

I, Gary Spackman, Director of the Idaho Department of Water Resources, do hereby certify that the above and foregoing record and hearing exhibits listed and produced were compiled under my direction, and are a true and correct record of the pleadings, papers, proceedings, and hearing exhibits offered and admitted or officially noticed therein as shown in the table of contents and index to this record.

IN WITNESS WHEREOF, I have hereunto set by hand and affixed the seal of the Department of Water Resources at Boise, Idaho this 26th day of January 2022.



GARY SPACKMAN
Director
Idaho Department of Water Resources

LAWRENCE G. WASDEN
ATTORNEY GENERAL

DARRELL G. EARLY
Chief of Natural Resources Division

GARRICK L. BAXTER, ISB No. 6301
JOY M. VEGA, ISB No. 7887
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Attorneys for Respondents

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EDEN'S GATE LLC,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his official capacity as Director of the Idaho Department of Water Resources,

Respondents,

and

FARMERS CO-OPERATIVE DITCH COMPANY,

Intervenor.

Case No. CV14-21-10116

ORDER SETTLING THE AGENCY TRANSCRIPT AND RECORD

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

On January 6, 2022, the Idaho Department of Water Resources ("Department") served its *Notice of Lodging the Agency Transcript and Record with the Agency* ("*Notice*") in this matter pursuant to I.R.C.P 84(j). The *Notice* gave the parties fourteen (14) days from the date of the *Notice* to file any objection to the agency transcript and record. No objections to the agency transcript or record were filed with the Department.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that, with no objections to the agency transcript and record having been filed, the agency transcript and record are now deemed settled pursuant to I.R.C.P. 84(j).

IT IS FURTHER ORDERED that, pursuant to I.R.C.P. 84(j), this Order shall be included in the agency record on the petition for judicial review. The Department shall provide the parties with a copy of the settled agency transcript and record.

DATED this 26th day of January 2022.

Gary Spackman

GARY SPACKMAN
Director
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of January 2022, I caused to be served a true and correct copy of the foregoing *Order Settling the Agency Transcript and Record* by iCourt e-filing to:

Albert P. Barker Michael A. Short **BARKER ROSHOLT & SIMPSON LLP** 1010 W. Jefferson St., Ste. 102 P.O. Box 2139 Boise, ID 83701-2139 apb@idahowaters.com mas@idahowaters.com *Attorneys for Petitioner Eden's Gate LLC*	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ iCourt E-File and Serve
Bryce Farris **SAWTOOTH LAW OFFICES, PLLC** P.O. Box 7985 Boise, Idaho 83707 bryce@sawtoothlaw.com *Attorney for Intervenor Farmers Co-Operative Ditch Company*	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ iCourt E-File and Serve



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Idaho Department of Water Resources

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Attorneys for Respondents

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EDEN'S GATE LLC, Petitioners, vs. THE IDAHO DEPARTMENT OF WATER RESOURCES and GARY SPACKMAN in his official capacity as Director of the Idaho Department of Water Resources, Respondents, and FARMERS CO-OPERATIVE DITCH COMPANY, Intervenor.	**Case No. CV14-21-10116** **NOTICE OF LODGING THE SETTLED AGENCY TRANSCRIPT AND RECORD WITH THE DISTRICT COURT**

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-34832 THROUGH 63-34838 AND 63-34840 THROUGH 63-34846 ALL IN THE NAME OF EDEN'S GATE LLC

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

On January 6, 2022, the Idaho Department of Water Resources ("Department") served its *Notice of Lodging the Agency Transcript and Record with the Agency* ("Notice") in this matter pursuant to I.R.C.P. 84(j). The Notice gave the parties fourteen (14) days from the date of the Notice to file any objection to the agency transcript and record. No objections to the agency transcript or record were filed with the Department.

The Department filed an *Order Settling the Agency Transcript and Record* with the District Court on January 26, 2022. The agency transcript and record are deemed settled pursuant to I.R.C.P. 84(j).

YOU ARE HEREBY NOTIFIED that the settled agency transcript and record are being filed with the District Court, pursuant to I.R.C.P. 84(k), through iCourt e-filing and by providing one (1) DVD containing documents in OCR format, dated January 26, 2022. A copy of the settled agency transcript and record filed with the District Court have been uploaded to the Department's website. The parties may visit https://idwr.idaho.gov/legal-actions/district-court-actions/edens-gate-district-court/ and follow their browser's document download procedure to obtain a copy of the settled agency transcript and record after expanding the accordion labeled "Settled Agency Transcript and Record" and clicking on the PDFs titled "Settled Agency Hearing Transcript on Appeal" and "Settled Agency Record on Appeal."

DATED this 26th day of January 2022.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



GARRICK L. BAXTER
Deputy Attorney General
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of January 2022, I caused to be served a true and correct copy of the foregoing *Notice of Lodging the Settled Agency Transcript and Record with the District Court* by iCourt E-file and Serve to:

Albert P. Barker Michael A. Short **BARKER ROSHOLT & SIMPSON LLP** 1010 W. Jefferson St., Ste. 102 P.O. Box 2139 Boise, ID 83701-2139 apb@idahowaters.com mas@idahowaters.com *Attorneys for Petitioner Eden's Gate LLC*	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ iCourt E-File and Serve
Bryce Farris **SAWTOOTH LAW OFFICES, PLLC** P.O. Box 7985 Boise, Idaho 83707 bryce@sawtoothlaw.com *Attorney for Intervenor Farmers Co-Operative Ditch Company*	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☒ iCourt E-File and Serve



GARRICK L. BAXTER
Deputy Attorney General
Idaho Department of Water Resources